

3710
No.

IN THE
United States
Circuit Court of Appeals
For the Ninth Circuit

ANGELO H. ROSSI,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record

Upon Writ of Error to the District Court of the
United States for the District of Oregon.

FILED
JUL - 1 1927
F. D. MONCKTON,
CLERK

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CITATION ON WRIT OF ERROR

United State of America,
District of Oregon,—ss.

To Lester W. Humphreys, United States Attorney,
and John C. Veatch, Assistant United States
Attorney.

Greeting:

You are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, within thirty days from the date hereof, pursuant to a writ of error filed in the Clerk's office of the District Court of the United States for the District of Oregon, wherein Angelo H. Rossi is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Given under my hand, at Portland, in said District, this 10th day of May, in the year of our Lord, one thousand, nine hundred and twenty-one.

CHAS. E. WOLVERTON,
Judge.

Due proof of service of the within citation on Writ of Error is hereby admitted this 10th day of May, 1921.

JOHN C. VEATCH,
Assistant U. S. Attorney

Filed May 10, 1921.

G. H. MARSH,
Clerk, U. S. District Court.

**In the United States Circuit Court of Appeals for
the Ninth Circuit.**

Angelo H. Rossi,

Plaintiff in Error,

vs.

The United States of America,

Defendant in Error.

The United States of America,—ss.

The President of the United States of America.
To the Judge of the District Court of the United
States for the District of Oregon:

Greeting:

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the District Court before the Honorable Charles E. Wolverton, one of you, between The United States of America, Plaintiff and Defendant in Error, and Angelo H. Rossi, Defendant and Plaintiff in Error, a manifest error hath happened to the great damage of the said Plaintiff in Error, as by complaint doth appear; and we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties

aforesaid, and, in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at San Francisco, California, within thirty days from the date hereof, in the said Circuit Court of Appeals to be then and there held; that the record and proceedings aforesaid, being then and there inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States of America should be done.

WITNESS the HONORABLE EDWARD DOUGLAS WHITE, Chief Justice of the Supreme Court of the United States, this 10th day of May, 1921.

G. H. MARSH,

Clerk of the District Court of the United States
for the District of Oregon.

(Seal of U. S. District Court, District of Oregon.)

**In the District Court of the United States for the
District of Oregon.**

March Term, 1920.

BE IT REMEMBERED, That on the 30th day of June, 1920, there was duly filed in the District

Court of the United States for the District of Oregon, an Indictment, in words and figures as follows, to-wit:

**In the District Court of the United States for the
District of Oregon.**

UNITED STATES OF AMERICA,

vs.

Fred Peterson, alias "Swede Whitey," Angelo
H. Rossi, William Brenner, Robert La Salle,
W. E. Smith and Dave Stein,

Defendants.

INDICTMENT for violation of Section 37 of the
United States Penal Code.

United States of America,

District of Oregon,—ss.

The Grand Jurors of the United States of America, for the District of Oregon, duly impaneled, sworn, and charged to inquire within and for said District, upon their oaths and affirmations, do find, charge, allege, and present:

That on, to-wit: on or about the 1st day of March, 1920, the exact date being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, and within the jurisdiction of this

Court, Fred Peterson, alias "Swede Whitey," Angelo H. Rossi, Dave Stein, William Brenner, Robert LaSalle, and W. E. Smith, the defendants above named, did then and there, at said time and place, wilfully, knowingly, unlawfully, and feloniously conspire, combine, confederate, and agree together, between and among themselves and with divers and various other persons whose names are to the Grand Jurors unknown, to commit the acts made offenses and crimes by the laws of the United States, to-wit: by sections 148, 151, and 154 of the Penal Code of the United States, and to defraud the United States; that is to say, said defendants above named, and divers and various other persons whose names are to the Grand Jurors unknown, as aforesaid, did then and there at said times and place, knowingly, wilfully, unlawfully, and felonously conspire, combine, confederate, and agree together, between, and among themselves, as aforesaid, to devise and execute, and did devise and execute, a plot, plan, and scheme to falsely make and alter certain obligations and securities of the United States, to-wit: United States War Savings Certificates and United States War savings Certificate Stamps, and to pass, publish, utter, and sell said falsely made and altered obligations and securities of the United States and to have and keep the same in their possession and to conceal the same, with the intent and purpose on the part of them, the said defendants, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and to buy, receive, sell,

exchange, transfer, and deliver said falsely made and altered obligations and securities of the United States, with the intent and purpose on the part of them, the said defendants, that said falsely made and altered obligations and securities of the United States be passed, published, and used as true and genuine, and to defraud the United States by presenting for redemption and causing the United States to redeem and purchase said falsely made and altered obligations and securities of the United States; that it was a part and portion of said wilful, unlawful, and felonious conspiracy, confederation, combination, and agreement, so entered into by said defendants as aforesaid, that said plot, plan, and scheme to commit the acts made offenses and crimes by said sections 148, 151 and 154 of the United States Penal Code, aforesaid, and to defraud the United States as aforesaid, was to be carried out, affected, and put into operation by the following methods, plans, means, and manner, to-wit: that said defendant Fred Peterson, alias "Swede Whitey," and others whose names are to the Grand Jurors unknown, were to steal, take, and carry away from the owners and custodians thereof certain United States War Savings Certificates and United States War Savings Certificate Stamps; that thereupon and thereafter, said defendant Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, were to remove from said United States War Savings Certificates certain United States War Savings Certifi-

cate Stamps thereunto attached and to remove and erase from the face of said United States War Savings Certificate Stamps so removed from said United States War Savings Certificates, as aforesaid, certain registration and identification numbers thereon; that thereupon and thereafter, said defendant Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, were to pass, sell, transfer, and deliver said United States War Savings Certificate Stamps so removed from said United States War Savings Certificates and so altered as aforesaid, to said defendant Angelo H. Rossi; that said defendant Angelo H. Rossi was to buy, receive, keep in his, the said Angelo H. Rossi's, possession and conceal said United States War Saving Certificate Stamps so removed and so altered as aforesaid, and thereupon and thereafter was to procure blank United States War Savings Certificates and attach thereto said United States War Savings Certificate Stamps so removed and altered as aforesaid, and pass, sell, transfer, and deliver said United States War Savings Certificates so procured as aforesaid, and with said altered United States War Savings Certificate Stamps so attached as aforesaid, together with other United States War Savings Certificate Stamps so removed and so altered as aforesaid, to said defendants Robert LaSalle, William Brenner, W. E. Smith, and Dave Stein and divers and various other persons whose names are to the Grand Jurors unknown; that said defendants Robert LaSalle,

William Brenner, W. E. Smith, and Dave Stein, and others whose names are to the Grand Jurors unknown, were to buy, receive, have and keep in their, the last named defendants' possession and conceal said United States War Savings Certificates and United States War Savings Certificate Stamps so passed, sold, transferred, and delivered to them by said defendant Angelo H. Rossi, as aforesaid, and were thereupon and thereafter to pass, sell, transfer, and deliver said altered United States War Savings Certificates and said United States War Savings Certificate Stamps to various and divers persons whose names are to the Grand Jurors unknown; that it was a part and parcel of said unlawful and felonious conspiracy, confederation, combination, and agreement so entered into by said defendants as aforesaid, that said United States War Savings Certificates and United States War Savings Certificate Stamps should be procured, altered, passed, published, uttered, sold, transferred, exchanged, and delivered, and bought, received, kept, and concealed in the way and manner aforesaid, with the intent and purpose on the part of them, the said defendants, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent and purpose that said United States War Savings Certificates and United States War Savings Certificate Stamps, so altered as aforesaid, be passed, published, and used as true and genuine.

That said wilful, unlawful, and felonious conspiracy, confederation, combination and agreement,

aforesaid, so entered into by said defendant aforesaid, continued from the date of said conspiracy as aforesaid, until on or about the 20th day of March, 1920, the exact date being to the Grand Jurors unknown; that at and during all of the times between said dates, as aforesaid, said wilful, unlawful, and felonious conspiracy, confederation, combination and agreement was continuously in operation and in execution, and that at and during all of said times all of the above named defendants continued to knowingly, wilfully, unlawfully, and feloniously conspire, combine, confederate, and agree together, between, and among themselves to commit the offenses hereinbefore set forth.

And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further find, charge, allege, and present:

1. That, in pursuance and in furtherance of said wilful, unlawful, and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof, said defendant Fred Peterson, alias "Swede Whitey," and others whose names are to the Grand Jurors unknown, as aforesaid, on to-wit: the 3rd day of March, 1920, at Scio, in the State and District of Oregon, did then and there, at said time and place, steal, take, and carry away from The Scio State Bank, of Scio, Oregon, a corporation organized under the laws of the State of Oregon, certain United States War Savings Certificates and United States War Savings Certificates Stamps, then and

there owned by various individual persons, as hereinafter set forth, and then and there in the custody and control of said The Scio State Bank, of Scio, Oregon, to-wit: United States War Savings Certificate number 08538395, with 8 United States War Savings Certificate Stamps attached, belonging to Nancy D. Arnold; United States War Savings Certificates numbered 01332787, 01332788, 01336599, 01332844, 01332846, 01332847, 08538327, 08535950, 08530951, 08530952, with 20 United States War Savings Certificate Stamps attached to each, belonging to George M. Bilyeu; United States War Savings Certificates numbered 00236582, 0853298, 22663204, 421114533, 42114577, 42114607, 2653642, 2653612, 2653613, 01332864, 2653618, 2653626, with 20 United States War Savings Certificate Stamps attached to each, belonging to Daisy Buckner; United States War Savings Certificate number 01332863, with 8 United States War Savings Certificate Stamps attached and United States War Savings Certificate number 2653680, with 1 United States War Savings Certificate Stamp attached, belonging to Grace Bilyeu; United States War Savings Certificates number 08538327 and 19682570 with 20 United States War Savings Certificate Stamps attached to each, belonging to Melda Bilyeu; United States War Savings Certificate number 31607714, with 4 United States War Savings Certificate Stamps attached, belonging to Emma Cain; United States War Savings Certificates number 01332866, 01332867, 01332868, 01332869, 01332870, 01332871, 01332872, 01332873, 01332874, 01332876, with 20 United States

War Savings Certificate Stamps attached to each, belonging to Robert C. Daniel; United States War Savings Certificates numbered 08535978, 08535977, 08535976, with 20 United States War Savings Certificate Stamps attached to each, belonging to F. J. Denny; United States War Savings Certificates numbered 00236553, 00236552, 00236556, 00236559, 00236562, 00236566, 00236576, 00236591, 00236593, 00236600 with 20 United States War Savings Certificate Stamps attached to each, belonging to Elizabeth J. Ewing; United States War Savings Certificate number 42114506 with 10 United States War Savings Certificate Stamps attached, belonging to Cora W. Eichinger; United States War Savings Certificate numbered 18468999 and 2653645 with 1 United States War Savings Certificate Stamp attached to each, belonging to Ruth M. Eichinger; United States War Savings Certificates numbered 58338335, 58338336, 58338337, 58338338, 58338339, 58338340, 58338341, 58338342, 58338343, 58338344, with 20 United States War Savings Certificate Stamps attached to each, belonging to Guy Funk; United States War Savings Certificate number 08538334, with 20 United States War Savings Certificate Stamps attached, belonging to J. T. Funk; United States War Savings Certificates numbered 08538361, 08538362, 08538363, 08538364, with 20 United States War Savings Certificate Stamps attached to each, belonging to Mrs. S. O. Funk; United States War Savings Certificate number 08535975 with 5 United States War Savings Certificate Stamps attached, belonging to Wilbur Funk;

United States War Savings Certificate number 08523593, with 4 United States War Savings Stamps attached, belonging to Frankie Holub; United States War Savings Certificate number 08538312, with 20 United States War Savings Certificate Stamps attached, belonging to Mary Holub; United States War Savings Certificate number 19672430, with 12 United States War Savings Certificate Stamps attached, belonging to Joe Holub; United States War Savings Certificates numbered 01332853 19672475, 19672346, 42114549, 42114550, 42114551, 42114552, 42114553, 42114554, 42114555, with 20 United States War Savings Certificate Stamps attached to each, belonging to Anto Holub; United States War Savings Certificate number 19672438, with 20 United States War Savings Certificate Stamps attached, belonging to Emma Holub; United States War Savings Certificates numbered 00235612, 00236520, 00012379, 00236524, 00012371, with 20 United States War Savings Certificate Stamps attached to each, belonging to Edward D. Jones; United States War Savings Certificates numbered 00236513, 00236519, 00012380, 00236525, 00236539, 00012378, with 20 United States War Savings Certificate Stamps attached to each, belonging to Minnie V. Jones; United States War Savings Certificates numbered 01332901, with 12 United States War Savings Certificate Stamps attached to each, belonging to Fred Jones; United States War Savings Certificate number 00012468, with 3 United States War Saving Certificate Stamps attached, belonging to W. J. Kelly; United States War Savings

Certificates numbered 00012469 and 22664385, with 20 United States War Savings Certificates Stamps attached to each, belonging to W. R. Kelly; United States War Savings Certificate number 00236561, with 20 United States War Savings Certificate Stamps attached, belonging to Marjorie E. Moses; United States War Savings Certificate number 00236560, with 20 United States War Savings Certificate Stamps attached, belonging to Elizabeth T. Moses; United States War Savings Certificates numbered 2653605, with 20 United States War Savings Certificate stamps attached, and 31291568, with 2 United States War Savings Certificate Stamps attached, belonging to Napoleon B. Moses; United States War Savings Certificate number 01332878, with 20 United States War Savings Certificate Stamps attached, belonging to Ollie MacDonald; United States War Savings Certificates numbered 01332859, 18468965, 19672393, 19672392, 42114509, 42114510, 42114512, 42114513, 42114514, 42114515, with 20 United States War Savings Certificate Stamps attached to each, belonging to Vaclav Prokop; United States War Savings Certificates numbered 42114518, 42114519, 42114520, 42114521, 42114522, with 20 United States War Savings Certificate Stamps attached to each, belonging to Antonie Prokop; United States War Savings Certificate number 18468987, with 2 United States War Savings Certificate Stamps attached, belonging to Ephriam Piatt; United States War Savings Certificate number 19672476, with 12 United States War Savings Certificate Stamps attached, belonging to

William Phillips; United States War Savings Certificate number 19672477, with 12 United States War Savings Certificate Stamps attached, belonging to Elva Phillips; United States War Savings Certificate number 18468977, with 10 United States War Savings Certificate Stamps attached, belonging to Thomas P. Prospal; United States War Savings Certificate number 08538277, with 11 United States War Savings Certificate Stamps attached, belonging to Lulu Quinn; United States War Savings Certificates numbered 00236516, 00236526, 18468970, 01332860, 42114532, 22663202, 2653078, 42114575, 2653644, 2653609, 2653610, 2653641, 2653619, 2653628, 4211408, with 20 United States War Savings Certificate Stamps attached to each, belonging to Albert E. Randall; United States War Savings Certificates numbered 08538256, 42114534, 22663203, 42114576, 2653643, 2653608, 2653607, 2653606, 2653620, 2653627, with 20 United States War Savings Certificate Stamps attached to each, belonging to Melvina Randall; United States War Savings Certificates numbered 18468968, 08523607, 19672408, with 20 United States War Savings Certificate Stamps attached to each, belonging to Effie Rogers; United States War Savings Certificate numbered 19672326, with 5 United States War Savings Certificate Stamps attached, belonging to C. H. Rockwell; United States War Savings Certificate number 19672451, with 5 United States War Savings Certificate Stamps attached, belonging to Mary E. Richardson; United States War Savings Certificate number 19672449, with 6 United States War

Savings Certificate Stamps attached, belonging to Verlin Richardson; United States War Savings Certificate number 19672450, with 15 United States War Savings Certificate Stamps attached, belonging to Thomas A. Richardson; United States War Savings Certificate number 00236563, with 1 United States War Savings Certificate Stamp attached, belonging to John W. Scott; United States War Savings Certificate number 22663120, with 1 United States War Savings Certificate Stamp attached, belonging to Glenn A. Scott; United States War Savings Certificate number 22664392, with 20 United States War Savings Certificate Stamps attached, belonging to Frank Shuedler; United States War Savings Certificate number 08538368, with 7 United States War Savings Certificate Stamps attached, belonging to Elinor R. Shimanek; United States War Saving Certificates number 22664344, 22664345, 42114581, with 20 United States War Savings Certificate Stamps attached to each, belonging to C. F. Sargent; United States War Savings Certificate number 08423563, with 7 United States War Savings Certificate Stamps attached, belonging to C. A. Silbernagel; United States War Savings Certificate number 19672356, with 6 United States War Savings Certificate Stamps attached, belonging to Rosa Silbernagel; United States War Savings Certificates numbered 2653678, and 18468975, with 2 United States War Savings Certificate Stamps attached to each, belonging to Eldon Vaughan; United States War Savings Certificates numbered 00236522, 00236528, 00236529, 00236530, and

08535930, with 20 United State War Savings Certificate Stamps attached to each, belonging to William A. White; United States War Savings Certificate number 1846898, with 10 United States War Savings Certificate Stamps attached, belonging to James K. White; and United States War Savings Certificate number 19672338, with 10 United States War Savings Certificate Stamps attached, belonging to Charles A. White.

2. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement, and to accomplish the objects and purposes thereof, said defendant Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, with the intent and purpose on the part of him, the said Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, as aforesaid, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, did, on, to-wit: on or about the 4th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, then and there, at said time and place, remove from said United States War Savings Certificates the said United States War Savings Certificate Stamps thereunto attached, as aforesaid, and, at said time and place, did erase and remove from the face of said United States War Savings Certificate Stamps so removed from said United States War Savings Certificates

as aforesaid, a certain registration and identification number, to-wit: number 50819.

3. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement, and to accomplish the objects and purposes thereof, as aforesaid, said defendant Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, on, to-wit: on or about the 5th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, did, then and there, at said time and place, sell, pass, transfer, and deliver to said defendant Angelo H. Rossi said United States War Savings Certificate Stamps so removed from said United States War Savings Certificates and so altered as aforesaid, with the intent and purpose on the part of him the said Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, as aforesaid, to defraud the United States and others whose names are to the Grand Jurors unknown, and with the intent that said United States War Savings Certificate Stamps so removed and altered as aforesaid be passed, published, and used as true and genuine.

4. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement aforesaid, and to accomplish the objects and purposes thereof aforesaid, said defendant Angelo H. Rossi, did, on, to-

wit: on or about the 5th day of March, 1920, at Portland, in the State and District of Oregon, buy and receive from said defendant Fred Peterson, alias "Swede Whitey", and others whose names are to the Grand Jurors unknown, as aforesaid, and have and keep in his, the said Angelo H. Rossi's, possession and conceal said United States War Savings Certificate Stamps so removed and so altered, as aforesaid, with the intent and purpose on the part of him, the said Angelo H. Rossi, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent and purpose that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Angelo H. Rossi, knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

5. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof, aforesaid, said defendant Angelo H. Rossi, did, on, to-wit: on or about the 8th day of March, 1920, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to said defendant Dave Stein 63 of said United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Angelo H. Rossi, to defraud the United States and individual persons whose names are to the Grand

Jurors, unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Angelo H. Rossi, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

6. That in pursuance and furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof, aforesaid, said defendant Dave Stein did, on, to-wit: on or about the 8th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, buy and receive from said defendant Angelo H. Rossi and have and keep in his, the said Dave Stein's possession and conceal 63 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Dave Stein, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Dave Stein, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

7. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation,

combination and agreement and to accomplish the objects and purposes thereof, aforesaid, said defendant Dave Stein did, on, to-wit: on or about the 9th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, sell, transfer and deliver to one Phillip Tobin 63 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Dave Stein, to defraud said Phillip Tobin and others whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Dave Stein, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

8. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Angelo H. Rossi did, on, to-wit: on or about the 10th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to said defendant W. E. Smith 50 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Angelo H. Rossi, to defraud the United States and individual

persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Angelo H. Rossi, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

9. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination and agreement and to accomplish the objects and purposes thereof, aforesaid, said defendant W. E. Smith, did, on, to-wit: on or about the 10th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, buy and receive from said defendant Angelo H. Rossi and have and keep in his, the said W. E. Smith's possession and conceal 50 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said W. E. Smith, to defraud the United States and others whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said W. E. Smith, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

10. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confeder-

tion, combination, and agreement and to accomplish the objects and purposes thereof, aforesaid, said defendant W. E. Smith did, on, to-wit: on or about the 10th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to one Julius Herns 50 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said W. E. Smith, to defraud said Julius Herns and others whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said W. E. Smith, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

11. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Angelo H. Rossi, did, on, to-wit: on or about the 10th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to said defendant William Brenner 214 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Angelo H. Rossi, to defraud the United States

and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Angelo H. Rossi, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

12. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant William Brenner did, on, to-wit: on or about the 10th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, buy and receive from said defendant Angelo H. Rossi, and have and keep in his, the said William Brenner's possession and conceal 214 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said William Brenner, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said William Brenner, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

13. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confeder-

tion, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant William Brenner did, on, to-wit: the 11th day of March, 1920, at Portland, in the State and District of Oregon, pass, sell, transfer and deliver to said defendant Robert LaSalle 66 United States War Saving Certificate Stamps so removed and so altered as aforesaid with the intent and purpose on the part of him, the said William Brenner, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he the said William Brenner then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

14. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Robert LaSalle did, on, to-wit: on the 11th day of March, 1920, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to one George R. Randolph 66 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Robert LaSalle to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United

States War Savings Certificate Stamps be passed, published, and used as true and genuine, he the said Robert LaSalle, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

15. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant William Brenner did, on, to-wit: the 17th day of March, 1920, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to said defendant Robert LaSalle 148 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said William Brenner, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said William Brenner, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

16. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Robert LaSalle, did, on, to-wit: the 17th day of March, 1920, at Portland, in the State and

District of Oregon, buy and receive from said defendant William Brenner and have and keep in his, the said Robert LaSalle's possession and conceal 148 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Robert LaSalle to defraud the United States and others whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Robert LaSalle, then and there knowing said United States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

17. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Robert LaSalle did, on, to-wit: the 17th day of March, 1920, at Portland, in the State and District of Oregon, pass, sell, transfer, and deliver to one George R. Randolph 148 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Robert LaSalle, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said altered United States War Savings Certificate Stamps be passed, published, and used as true and genuine, he, the said Robert LaSalle, then and there knowing said United

States War Savings Certificate Stamps to be altered in the way and manner aforesaid.

18. That in pursuance and in furtherance of said unlawful and felonious conspiracy, confederation, combination, and agreement and to accomplish the objects and purposes thereof aforesaid, said defendant Angelo H. Rossi did, on, to-wit: on or about the 17th day of March, 1920, the exact date thereof being to the Grand Jurors unknown, at Portland, in the State and District of Oregon, procure certain blank United States War Savings Certificates, to-wit: United States War Savings Certificates of the series of 1918 respectively numbered 05082990, 05082988, 05082969, 05082993, 05082989, 05082968, and attached to each of said United States War Savings Certificates so procured 20 United States War Savings Certificate Stamps so removed and so altered as aforesaid, with the intent and purpose on the part of him, the said Angelo H. Rossi, to defraud the United States and individual persons whose names are to the Grand Jurors unknown, and with the intent that said United States War Savings Certificates so altered as aforesaid be passed, published, and used as true and genuine, he, the said Angelo H. Rossi, then and there knowing said United States War Savings Certificate Stamps so attached to said United States War Savings Certificates so procured as aforesaid, to have been removed from other United States War Savings Certificates and altered in the way and manner aforesaid, contrary to the form of the

statute in such case made and provided and against the peace and dignity of the United States of America.

Dated at Portland, Oregon, this 30th day of June, 1920.

P. A. YOUNG,
Foreman, United States Grand Jury.

JOHN C. VEATCH,
Assistant United States Attorney.

Endorsed "A True Bill."

P. A. YOUNG,
Foreman, Grand Jury.

Filed June 30, 1920.

G. H. MARSH, Clerk.

And afterwards, to-wit, on Monday, the 26th day of July, 1920, the same being the 19th judicial day of the regular July term of said Court; present the Honorable Robert S. Bean, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, alias "Swede Whitey",
Angelo H. Rossi, William Brenner,

Robert La Salle, W. E. Smith and
Dave Stein.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendants William Brenner in his own proper person and by Mr. Barnett H. Goldstein, of counsel, and Angelo H. Rossi by Mr. Barnett H. Goldstein, of counsel. Whereupon said defendant William Brenner being duly arraigned upon the indictment hereinfi said defendants William Brenner and Angelo H. Rossi now in open court file their demurrer to said indictment, and thereupon upon motion of said defendant

IT IS ORDERED that said demurrer be and the same is hereby set for hearing for Monday, August 23, 1920.

And Afterwards, to wit, on the 26th day of July, 1920, there was duly filed in said Court, a Demurrer to Indictment in words and figures, as follows:

**In the District Court of the United States for the
District of Oregon.**

The United States of America,

Plaintiff,

vs.

Fred Peterson, alias "Swede Whitey",
Angelo H. Rossi, William Brenner,

Robert La Salle, W. E. Smith and
Dave Stein, Defendants.

Come now the defendants Angelo H. Rossi and William Brenner and demur to the indictment herein filed against them and each of them, upon the grounds and for the reasons, as follows:

I.

That said indictment does not state facts sufficient to constitute an offense against the laws of the United States and is insufficient in law to charge a crime against the said defendants or either of them.

II.

That the indictment is duplicitous in that two separate and distinct offenses are set out in one count; to-wit (1) the offense of conspiring to commit an offense made a crime by the laws of the United States, and (2) the offense of conspiring to defraud the United States.

BARNETT H. GOLDSTEIN,
Attorney for defendants Angelo
H. Rossi and William Brenner.

I, Barnett H. Goldstein, do hereby certify that I prepared the foregoing demurrer and that the same is filed in good faith and not for the purpose

of delay, and in my opinion same is well founded in law.

BARNETT H. GOLDSTEIN.

Due, timely and legal service by copy, admitted at Portland, Oregon, this 26th day of July, 1920.

JOHN C. VEATCH,
Attorney for Plaintiff.

Filed, July 26, 1920.

G. H. MARSH, Clerk.

And Afterwards, to wit, on Thursday, the 29th day of July, 1920, the same being the 22nd Judicial day of the Regular July term of said Court; present the Honorable Robert S. Bean, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi,
Robert LaSalle, et al.

Now at this day upon motion of Mr. John C. Veatch, Assistant United States Attorney,

IT IS ORDERED that this cause be and the same is hereby set for trial for Tuesday, October 26, 1920.

And afterwards, to-wit, on Tuesday, the 7th day of September, 1920, the same being the 56th judicial day of the regular July term of said Court; present the Honorable Robert S. Bean, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi
and William Brenner.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendant Fred Peterson above named by Mr. Paul M. Long, of counsel, and defendant Angelo H. Rossi and William Brenner by Mr. Barnett H. Goldstein, of counsel. Whereupon this cause comes on to be heard by the court upon the demurrers of defendants above named to the indictment on file herein. And the court, having heard the arguments of counsel, will advise thereof.

And afterwards, to-wit, on Monday, the 18th day of October, 1920, the same being the 91st judicial day of the regular July term of said Court; present the Honorable Charles E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi,
William Brenner, et al.

This cause was heard upon the demurrers of the defendants above named, Fred Peterson, Angelo H. Rossi and William Brenner, to the indictment herein, plaintiff appearing by Mr. Hall S. Lusk, Assistant United States Attorney, and defendants by Mr. B. H. Goldstein and Mr. Paul M. Long of counsel. Upon consideration whereof

IT IS ORDERED that each of said demurrers be and the same is hereby overruled.

And afterwards, to-wit, on the 19th day of October, 1920, there was duly filed in said Court, the opinion of Judge Wolverton in words and figures as follows, to-wit:

**In the District Court of the United States for the
District of Oregon.**

The United States of America,

vs.

Fred Peterson, alias "Swede Whitey",
Angelo H. Rossi, William Brenner,
Robert LaSalle, W. E. Smith, and
Dave Stein, Defendants.

Lester W. Humphreys, United States Attorney,
John C. Veatch, Assistant United States Atty.;
Barnett H. Goldstein for the Defendants.

WOLVERTON, District Judge: (Memo).

This is an indictment for conspiracy to commit certain offenses against the United States, and to defraud the United States. The alleged offenses are those denounced by sections 148, 151, and 154 of the Penal Code. The sufficiency of the indictment is challenged by demurrer, for duplicity.

It is first contended that the indictment is double in that it attempts to charge that defendants conspired to commit offenses against the United States, and also to defraud the United States; it being argued that each of these is made a separate offense under the conspiracy statute, Section 37 of the Criminal Code. Whatever may be the purpose of the statute in making them separate offenses, the objection is obviously not well taken in the present case, as the offenses which is charged the defendants conspired to commit comprise as one of their elements the intent to defraud the United States. Therefore, the allegation of conspiracy to defraud in connection with the purpose to commit the offense does not render the indictment subject to the objection.

The second contention is that the indictment charges a conspiracy to commit several different offenses involving different penalties, and hence is

subject to the objection of duplicity. This is not fatal. As the court says, in *Joplin Mercantile Co. v. United States*, 213 Fed. 926, 929,

“That one conspiracy could be formed to violate any number of laws of the United States seems beyond question.”

There is but one penalty prescribed for the offense of conspiracy, and that is the offense for which the defendants are to be tried. The present indictment affords an apt illustration as to why it is wholly appropriate to indict for a conspiracy to commit several offenses against the United States. The very scheme alleged involves the commission of all these offenses in carrying out the purpose of the alleged conspirators.

The case of *John Gund Brewing Co. v. United States*, 204 Fed. 17, 21, is opposed to this view, but it does not satisfy my judgment. I have examined the authorities cited to uphold it, and find none of them to the point.

The demurrer will be overruled.

Filed, October 18, 1920.

G. H. MARSH, Clerk.

And afterwards, to wit, on Tuesday, the 26th day of October, 1920, the same being the 98th judicial day of the regular July term of said Court;

present the Honorable Charles E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi,
William Brenner, Robert LaSalle,
W. E. Smith and Dave Stein.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendants named each in his own proper person and defendants William Brenner, Angelo H. Rossi and W. E. Smith by Mr. Barnett H. Goldstein, of counsel, defendant Robert LaSalle, by Mr. Frank Lonergan and Mr. John Stevenson, of counsel, defendant Dave Stein by Mr. Alex Bernstein and Mr. Solis D. Cohen, of counsel, and defendant Fred Peterson by Mr. Paul M. Long of counsel. Whereupon this being the day set for the trial of this cause now come the following named jurors to try the issue joined, viz: George B. Zimmerman, George M. Shaver, Stephen Poole, William Pringle, Isador Greenbaum, Fred H. Moore, Arch C. Sinclair, Carl G. Liebe, Walter B. Peacock, Fred S. Pickering, William Nelson and Edward Northrup; twelve good and lawful men of the district who being accepted by both parties, are duly impaneled and sworn. And the hour of adjournment having arrived, the trial

of this cause is continued to to-morrow, Wednesday, October 27, 1920.

And afterwards, to-wit, on Tuesday, the 9th day of November, 1920, the same being the 7th judicial day of the regular November term of said Court; present the Honorable Charles E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, alias "Swede Whitey",

Angelo H. Rossi, William Brenner,

Robert LaSalle, W. E. Smith and

Dave Stein,

Defendants.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendants above named each in his own proper person and by his counsel as of yesterday. Whereupon the jurors impaneled herein come into court, answer to their names, and return to the court the following verdict, viz:

"We, the jury duly impaneled to try the above cause, do find the defendant FRED PETERSON, alias SWEDE WHITEY, GUILTY as charged in the indictment, and

The defendant ANGELO H. ROSSI, GUILTY as charged in the indictment, and

The defendant WILLIAM BRENNER, CANNOT AGREE, and

The defendant ROBERT LA SALLE, CANNOT AGREE, and

The defendant W. E. SMITH, CANNOT AGREE, and

The defendant, DAVE STEIN, NOT GUILTY as charged in the indictment herein.

Dated at Portland, Oregon, this 9th day of November, 1920.

Fred H. Moore, Foreman."

which verdict is received by the court and ordered to be filed. Whereupon it is ORDERED that the defendant Dave Stein go hence without day, and that the sureties upon his recognizance be and they are hereby exonerated from further liability in this behalf. And upon motion of defendants Fred Peterson and Angelo H. Rossi,

IT IS ORDERED that the said defendants be and they are each hereby allowed 30 days from this date to file a motion for a new trial and to present a bill of exceptions herein.

And afterwards, to wit, on the 9th day of November, 1920, there was duly filed in said Court, the Verdict in words and figures as follows, to-wit:

**In the District Court of the United States for the
District of Oregon.**

The United States of America,

vs.

Fred Peterson, alias Swede Whitey,
Angelo H. Rossi, William Brenner,
Robert LaSalle, W. E. Smith and
Dave Stein, Defendants.

VERDICT.

We, the jury duly impaneled to try the above entitled cause, do find the defendant FRED PETERSON, alias SWEDE WHITEY, guilty as charged in the indictment, and

The defendant ANGELO H. ROSSI, guilty as charged in the indictment, and

The defendant WILLIAM BRENNER, cannot agree, and

The defendant, ROBERT LA SALLE, cannot agree, and

The defendant, W. E. SMITH, cannot agree, and

The defendant, DAVE STEIN, not guilty as charged in the indictment herein.

Dated at Portland, Oregon, this 9th day of November, 1920.

Fred H. Moore, Foreman.

Filed, November 9, 1920.

G. H. Marsh, Clerk.

And afterwards, to-wit: on Monday, the 6th day of December, 1920, the same being the 29th judicial day of the regular November term of said Court; present the Honorable Charles E. Wolverton, United States District Judge presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi et al.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney and the defendant Fred Peterson above named in his own proper person and by Mr. Paul M. Long of counsel, and the defendant Angelo H. Rossi in his own proper person and by Mr. Barnett H. Gold-

stein, of counsel. Whereupon this cause comes on to be heard upon the motion of defendant Fred Peterson to set aside the verdict heretofore entered herein and for a new trial. And the court having heard the arguments of counsel.

IT IS ORDERED that this motion be and the same is hereby denied, and an exception allowed to said ruling. Whereupon upon motion of defendant Angelo H. Rossi

IT IS ORDERED that he be and he is hereby allowed to Monday, December 13, 1920, to file a motion herein for a new trial and to submit his bill of exceptions herein.

And afterwards, to-wit: on the 10th day of January, 1921, there was duly filed in said Court, a Motion for New Trial in words and figures as follows, to-wit:

MOTION FOR NEW TRIAL

**In the District Court of the United States for the
District of Oregon.**

The United States of America,

Plaintiff,

vs.

A. H. Rossi,

Defendant.

Comes now the defendant in the above entitled case by Barnett H. Goldstein, his attorney, and moves the Court to set aside the verdict of the jury rendered herein and to grant a new trial, for the following reasons and upon the following grounds:

I.

That the Court erred in over-ruling the defendant's demurrer to the indictment.

II.

That the record fails to show that the defendant has pleaded to this indictment as required by law and therefore no issue being had, there was nothing for the jury to try.

III.

That the defendant was prejudiced at the outset of his trial and during the course of his trial by articles appearing in newspapers then and there published and generally circulated in the City of Portland, Oregon, where said cause was being tried, which said articles purporting to discuss and comment upon this case were of such a nature as to arouse public prejudice against this defendant and were thereby calculated to prejudice the jury against him; that true and correct copies of such newspaper articles are hereto attached and made a

part of the affidavit of Barnett H. Goldstein, hereto annexed and made a part hereof.

IV.

That the defendant was prejudiced by remarks of the Court made during the course of the trial, as follows:

(a) During the examination of Julius Hems, a witness for the Government, when objection was interposed to the admissibility of statements made subsequent to the termination of the conspiracy, the Court made the following remarks:

“As to the objection that there has been no conspiracy proven here, you do not care to force the court to recount the testimony about that. I will overrule the objection.”

(b) During the examination of Julius Hems, a witness for the Government, when questioned as to the manner of eliciting information from him by government officers concerning which he testified that before making any statements he was told by John Price, connected with the Department of Justice, that he had better make a clean breast of it or go to jail (308), the Court at the conclusion of his testimony asked the following questions:

“COURT: Have you told the truth about that?

A. Yes, sir.

COURT: And nothing else?

A. Nothing else.

COURT: I think that is enough."

(e) During the examination of William Glover, a witness for the defendant, and a former United States Secret Service operative, when questioned by the attorney for defendant, testified as follows:

"Q. Did you come to me and ask me to put you on the stand?

A. I did, sir, night before last.

Q. Why did you ask that?

A. When I saw—the reason for asking you to put me on the stand—I saw that Mr. Veatch was not going to put me on the stand so I could explain away some of this newspaper notoriety that has been filtering here for the last six months; so I came to you and requested you to give me a chance to get the truth before this court and my friends here.

Q. This was a personal request of me as a friend of yours?

A. Yes, absolutely."

Whereupon the Court intervened as follows:

"COURT: Who is your friend?

A. Well, I have friends all over the coast, your Honor.

COURT: I thought you meant Rossi."

(d) During the examination of William Glover, a witness for the defendant, and a former United States Secret operative, when cross-examined by the Assistant-United States Attorney, he testified as follows:

"A. This is the way the Secret Service operates, which I testified to yesterday—if a man comes into our office that is a crook or has been, and he says that a man so and so is, he believes, —is going into counterfeiting, and has asked him to go into counterfeiting, we very oftentimes hire him as an informant, with the distinct understanding that he is to get what information he can, but under no circumstances is he to manufacture any money or violate the statute, because he would be just as liable as the men that made the money themselves."

Whereupon the Court intervened as follows:

"COURT: In other words, you make a stool pigeon out of him?

A. Yes, sir.

COURT: Did you attempt to do that with Rossi?

A. Well, that was part of the information, your Honor, that he was to furnish, that Mr. Walters made a condition as to keeping him under cover.

COURT: Was Rossi to act as stool pigeon in order to pick up information for you?

A. That is practically the matter of the fact, your Honor."

(e) During the examination of William Glover, a witness for the defendant, and a former United States Secret Service operative, the Court questioned him as follows:

"Q. I am asking you whether or not Rossi told you that he had sold or delivered any of these stamps to other parties.

A. No. No, sir.

Q. He left the impression with you that he was perfectly innocent himself?

A. -Yes, sir. He simply mentioned the stamps that he had—the Swede Peterson stamps, said that he didn't—he told me that he didn't know that they were crooked.

Q. So that he was not telling you the whole story?

A. Well, I imagine not from what later developed, your Honor. No question about that.

Q. That is all."

V.

That the Court erred in the admission of the following evidence to which exception was duly made by the defendant:

(a) In permitting Miss Daisy Buckner to testify as to the registry of War Savings Certificates Stamps on the ground that there was no charge in the indictment that the conspiracy contemplated the possession or sale of stamps that had been registered. (P. 12).

(b) In permitting William Bryon to testify as to admissions made by the defendant upon the ground that such statements had been induced by the promise of immunity theretofore granted to said defendant. (P. 25).

(c) In permitting William Bryon to testify orally as to admissions made by the defendant, which admissions had theretofore been reduced to writing and his written transcript was in the possession or under the control of the witness, on the ground that the written transcript was the best evidence. (P. 31).

(d) In permitting William Hyde to testify as to the condition of certain stamps that were in the possession of Mr. Randolph, upon the ground that no proof had been offered tending to show that those stamps were the identical stamps, or in any wise involved in the specific stamp transactions in the indictment. (P. 134).

(e) In permitting P. A. Young to testify as to admissions made by the defendant from notes that were not taken by him, on the ground that the best

evidence was the testimony of the man who made the notes.(P. 182).

(f) In permitting T. M. Word to testify from a certain report he made without permitting counsel for the defendant to examine such report, upon the ground that the defendant was entitled to know and cross-examine him as to the basis for making such report. (P. 265).

(g) In permitting George H. Marsh to testify in the government case in chief as to a former conviction of one of the defendants named Peterson, on the ground that such evidence was proof of another crime and thereby tended to prejudice all defendants jointly indicted and tried with Peterson. (P. 322).

(h) In permitting J. M. Riley to testify and through him to introduce certain stamps that were handed to him by the United States attorney in an effort to connect such stamps with those Mr. Randolph had received from one of the defendants and which in turn, he testified had been sent to a Mr. McCann in San Francisco, on the ground that there had been no evidence offered to connect the stamps that Mr. McCann had with those that subsequently came into the possession of the United States attorney's office. (P. 335).

VI.

That the Court erred in excluding the following evidence offered on behalf of defendant, to which exception was dully taken:

(a) In refusing P. A. Young permission to state that Mr. Glover had testified before a Grand Jury that he had promised immunity to Rossi for the information that he gave. (P. 189).

(b) In refusing W. A. Glover permission to state what the defendant told him concerning a conversation had with Mr. Bryon regarding the matter of immunity. (P. 385).

VII.

That the Court erred in denying the motion of the defendant to strike out all testimony of the Government witnesses as to admissions made to them by the defendant subsequent to the promise of immunity theretofore accorded to him by Mr. Glover and Mr. Walters, Secret Service operatives, in charge of this investigation. (P. 422).

VIII.

That at the close of all the evidence in the case and after the Court had ruled that the testimony of William Bryon should be stricken out on the ground that the admissions made by the defendant had been induced by the promise of immunity theretofore given to him, the Court erred in failing to give a mistrial on the ground of the highly prejudicial testimony of Mr. Bryon already before the jury. (P. 585).

IX.

That the Court erred in holding that the admissions of the defendant made before the Grand Jury were not induced or encouraged by the promise of immunity theretofore granted him. (P. 588).

X.

That the Court erred in refusing to direct a verdict of not guilty at the close of the evidence. (P. 569).

XI.

That the Court erred in instructing the jury as follows:

(a) In giving the following instruction:

“The only offense with which the defendants are charged, under the indictment, is that of conspiracy. That is the only cause on trial here, and you should confine your inquiry to that cause alone; and unless the defendants, or two or more of them, are guilty of that particular offense, they must be acquitted.

“You are not to understand, however, that you are not to take into consideration what the defendants, or any of them, have done, according as the evidence may tend to show, conducing to their inculpation. You should examine very carefully all the competent evidence offered with respect to the declarations and acts and

demeanor of all the defendants, as it relates to these War Savings Certificates and War Savings Certificate Stamps, in order to ascertain, if possible, how they came into the possession of the defendants, or any of them, if they ever had such possession; as to whether they were falsely made or altered by them, or any of them, if at all; as to whether they were sold or transferred, or received by them, or any of them; and as to whether they, or any of them, were uttered or passed as true and genuine; all for the purpose of determining whether the defendants, or any two or more of them, conspired together, as alleged, to commit these offenses, or any of them, or to defraud the United States." (P. 600).

and in not explaining such instruction as requested by the defendant:

"MR. GOLDSTEIN: "I also call your Honor's attention to an instruction that I think might be misunderstood. Your Honor stated at the outset that these defendants are not on trial for the substantive offenses themselves. That is, they are not on trial for receiving altered obligations or having in possession altered obligations, or passing altered obligations, but they are charged with conspiring to have these things and to do those things; but that they may consider the admissions and the demeanor of the defendants. I think that is a little confusing, in that it is my contention that the proof of a conspiracy cannot be predicated upon admissions of the defendants themselves as to any part in their transaction; that the proof of conspiracy must be established beyond an admission." (P. 668).

(b) In giving the following instruction:

"I further instruct you that a removal of the stamps from the certificate, if done with intent to defraud, would be tantamount to an alteration of a Government obligation, and would, in effect, render it a falsely made certificate or obligation within the purview of section 148 of the Penal Code, and would constitute a violation thereof. (P. 603).

(c) In giving the following instruction, on the ground that there was no charge in the indictment that any of these stamps had been registered:

"So if one should erase the registration number from the face of the stamp, or the owner's name from the certificate, with the intent to defraud, he would be guilty of an alteration of such certificate, and would commit the offense denounced by section 148." (P. 604).

(d) In giving the following instruction:

"I instruct you, however, that the statement made by Rossi in giving evidence (before the grand jury) is not to be so disregarded by you. There is evidence tending to show that Rossi appeared before the grand jury voluntarily, and of his own accord, and, although warned that whatever statement he might make would be used in evidence against him, he notwithstanding, gave such evidence without insisting upon his immunity. The evidence, therefore, of Mr. Young, the foreman of the grand jury, was competent and pertinent to prove the admissions of Rossi with reference to the stamp transac-

tions, and you are to regard these admissions for whatever tendency they may have, if any, to show Rossi's connection with the alleged conspiracy." (P. 607).

(e) In giving the following instruction, on the ground that there was no evidence in the case that any of these stamps were stolen by any of the defendants:

"You will inquire whether the stamps were stolen, and if so, whether by either of the defendants. And in this relation I may say to you that the possession of recently stolen property affords a strong inference that the property was stolen by the person having it in his possession." (P. 611).

(f) In giving the following instruction:

"Now, gentlemen of the jury, the first question that you propound is the following: Does a stamp simply by being removed from a certificate, said certificate not being registered, become an altered stamp?

"To that I answer, that if the certificate has a stamp attached and the name of the party written upon the certificate, and the stamp thereafter has been removed with intent to defraud, then the defendant would be guilty whether the certificate or stamp was registered or not." (P. 619).

(g) In giving the following instruction, on the ground that there was no evidence in this case that

any of these stamps were stolen by any of the defendants and no charge in the indictment that the defendants conspired to steal altered stamps, or have stolen altered stamps in their possession, knowing them to be stolen:

“The next question you ask is this: If defendants thought at the time that they were handling stolen stamps, but did not know they were altered registered stamps, could we find them guilty on this indictment?

“My answer to that is, that if the defendants were handling these stamps knowing them to be stolen, and they handled them with intent to defraud the United States, then they would be within the purport of this indictment.” (P. 620).

XII.

That the Court erred in failing and refusing to give the instructions requested by the defendant. (P. 619).

XIII.

That the verdict is contrary to the law in the case.

XIV.

That the verdict is not supported by any evidence in the case.

BARNETT H. GOLDSTEIN,
Attorney for Defendant.

STATE OF OREGON,)
 }ss.
County of Multnomah.)

I, Barnett H. Goldstein, attorney for the above named defendant, do hereby certify that in my opinion the above Motion is well founded in law.

Barnett H. Goldstein,
Attorney for Defendant.

**In the District Court for the State of Oregon
For the County of Multnomah.**

The United States of America,
Plaintiff,

vs.

A. H. Rossi, Defendant.

AFFIDAVIT.

STATE OF OREGON,)
 }ss.
County of Multnomah.)

I, Barnett Goldstein, being first duly sworn, depose and say that I am a practicing attorney in the State of Oregon, residing and maintaining an office at Portland, Oregon; that I am the attorney for the above named defendant and was his attorney prior to and throughout his trial herein; that in preparing for trial and in the course of said trial,

my attention was called to articles appearing in newspapers being published in the City of Portland relative to this defendant and his case and I thereupon read such articles and do hereby depose that the documents hereto attached are true and correct copies of articles appearing in the Portland News, The Morning Oregonian and the Evening Telegram, said articles appearing on the times and on the dates stated.

That the article marked "Exhibit A" appeared in the Portland News a few days prior to October 26th, 1920, the date when the trial herein began; that the article marked "Exhibit B" appeared in The Morning Oregonian on October 26th, 1920, the morning of said trial; that the article marked "Exhibit C" appeared in the Evening Telegram on October 26th, 1920, the day of said trial; that the article marked "Exhibit D" appeared in the Portland News on or about October 28th, 1920, and during the course of said trial; that the article marked "Exhibit E" appeared in the Evening Telegram on or about October 28th, 1920, and during the course of said trial; that the article marked "Exhibit F" appeared in the Evening Telegram on or about October 28th, 1920, and during the course of said trial; that the article marked "Exhibit G" appeared in the Portland News on or about October 29th, 1920, and during the course of said trial; that the article marked "Exhibit H" appeared in The Morning Oregonian on or about November 9th, 1920, and during the course of said trial.

That the said aforementioned publications, to-wit The Morning Oregonian, Portland News and the Evening Telegram, are each newspapers published daily and in general circulation throughout the said City of Portland, Oregon, where the trial of this defendant was then and there being held.

Barnett H. Goldstein.

Subscribed and sworn to before me this 7th day of January, 1921.

Glenn E. Husted,

(SEAL)

Notary Public for Oregon.

My commission expires Jan. 12, 1924.

EXHIBIT A.

From News Item Appearing in "Portland News."

"Implication of the United States secret service in the illegal sale of war savings stamps obtained by the robbery of a number of country banks is expected when the trial of six men charged with altering and disposing of the stamps begins in Federal Court Wednesday.

The stamps, together with some liberty bonds, were stolen from banks in Oregon and Washington last winter. The total value of the loot was in the neighborhood of \$35,000.

The bank robbers disposed of the government paper at less than one-fifth of its face value by

transferring it to 'fences,' who in turn sold it to others. One of the men who thus became involved in the alleged conspiracy is City Detective Bob La Salle.

DETECIVE ADMITS PART IN AFFAIR

Lt Salle admits selling several hundred dollars' worth of the stamps, but he says he had no knowledge of the robberies and it is expected that his attorneys will set up the claim that secret service agents told La Salle the stamps could be legally sold.

Dave Stein, a north end pawnbroker; William Brenner, a clothing merchant, and Angelo Rossi, another north end second-hand dealer, are facing trial on the charge of attempting to defraud by alteration and sale of war savings stamps. W. E. Smith, a former employe of Rossi, is also one of the alleged conspirators, as is Fred Peterson, the man who is suspected of having done the actual safe cracking."

EXHIBIT B.

From News Item Appearing in the "Oregonian."

October 26, 1920.

"The trial of six Portland men, including former detective on the city police force, for alleged trafficking in registered war savings stamps, part of the loot taken from Scio, Or., State bank when it was robbed on March 3 last, will be started in the United States district court here tomorrow. Interest in the trial has been increased by rumors that other prominent persons in Portland may be con-

nected with the operations of an alleged ring dealing in war savings stamps which are said to have been altered.

The six defendants are Bob La Salle, ex-detective on the city police force; Fred Peterson, **alleged robber, who has served three terms** in penitentiaries; Dave Stein, local pawnbroker; William Bremmer, owner of a clothing store, Angelo H. Rossi, pawnbroker and alleged to be a fence for thieves, and W. E. Smith, a watch maker, who once worked for Rossi.

STAMPS REGISTERED AT SCIO.

The tale of the robbery of the Scio bank of \$15,000 worth of registered war savings stamps as well as Liberty bonds, money and other valuables, is one of clever operatives, for the guilt of the actual crime has never been definitely placed. The bank purchased the stamps from the postoffice in Scio and took the precaution to have them registered, the Scio number being 50819, which was printed across the face of each stamp. The robbery occurred on March 3 and just a week later Fred Peterson was caught in Portland with a quantity of war savings stamps on him, some of which, according to federal operatives, clearly showed traces of alterations by the use of some acid, the odor of which was easily noticeable and yet clung to those stamps held as evidence by the United States attorney in his vaults yesterday, after more than seven months.

Peterson's activities led to Rossi, who had long been watched as a supposed receiver of stolen goods, said detectives, and later another lead

showed that Rossi was supposed to have sent a quantity of the stamps to San Francisco. The stamps were placed on the market at bargain prices, though they were worth their face value in all postoffices, and the ring saw an opportunity to make big profits, stated the complaint. Bremner bought and sold to La Salle at a profit and La Salle was said to have sold to George N. Randolph.

POOR SPECIMENS REPORTED.

It was stated that in the Randolph lot some poor specimens were found, some that were partly useable, and he asked La Salle for his money back. La Salle then came back on Bremner and Bremner on Rossi, who could not make good. This was said to have been the chain of events that set off the mine, for the partners fell out and the federal officers came in and were able to get some of them, who were angered, to talk enough to trace the operations of the gang. Rossi was said to have also sold stamps to W. E. Smith, who was said to have resold to Julius Hern.

Dave Stein was said to have made a sale to Philip Tobin, a tailor, who worked for him, and Tobin is one of the men who was reported to have had the bravado to redeem the stamps from the government after the postoffice department already had paid for them once."

EXHIBIT C.

News Item Appearing in the "Telegram."

FORMER CITY DETECTIVE ONE OF DEFENDANTS; ALLEGED ROBBER TO BE BROUGHT FROM CITY JAIL TO TESTIFY.

"Six men, one of them a former detective on the Portland police force, another now serving time in the county jail for robbery, went on trial this afternoon before Federal Judge Wolverton on the charge of attempting to defraud the government by the sale of altered war savings stamps.

The stamps involved, officials say, are believed to have been included in loot taken from the Scio, Or., State bank.

MAY INVOLVE OTHERS.

The six defendants are: Bob La Salle, ex-detective, Fred Robertson (Swede Whitey), alleged robber, who will be brought from his cell in the county jail to testify; Dave Stein, local pawnbroker; William Brenner, owner of a clothing store; Angelo H. Rossi, jeweler and pawnbroker, and W. E. Smith, a watchmaker who once worked for Rossi.

Special interest is attached to the case in view of the fact that other Portland men are said to be involved in the operations of the alleged conspirators in disposing of the stamps."

EXHIBIT D.

From News Item Appearing in the 'Portland News.'

"SECRET SERVICE HEAD MAY BE INVOLVED.

During the progress of the trial Thursday, William Glover, former head of the U. S. secret service here held frequent whispered conferences with Bar-

nett Goldstein, one of the six attorneys for the defendants.

It was charged by Assistant U. S. Attorney Veatch that Goldstein is secretly representing Glover in this trial, it being intimated by Veatch that Glover himself may be on trial at some time in the future."

EXHIBIT E.

From News Item Appearing in the "Telegram."

"William Glover, former secret service operative in charge of the Portland office, was not called as a witness by the government because he had been "running around talking to attorneys for the defense," according to his testimony as brought out by John Veatch, prosecuting attorney, in cross-examination of the government's case against six Portland men charged with conspiracy in dealing in altered war savings stamps.

Yesterday Glover testified he asked his friend, Barnett Goldstein, attorney for the defense, to put him on the stand in order that he might clear up recent newspaper notoriety before his friends.

'What friends do you refer to,' asked Judge Wolverton.

'Your honor, I have many friends up and down the coast,' he replied.

'Oh, I thought you alluded to Rossi,' said the judge."

EXHIBIT F.

From News Item Appearing in the "Telegram."

"Branded by his own admissions a traitor to his government, William Glover, recently deposed head of the local branch of the United States secret service, was submitted to a grilling cross examination in the federal court Saturday when he took the stand at his own request as a witness for the defense.

One of the startling disclosures made in the testimony of Glover was that he had been removed from the secret service after a letter had been sent by a federal grand jury to his chief at Washington.

This letter charged that Glover and an assistant planned with Angelo Rossi, a "stool pigeon" impressed into their scheme, to "plant" stolen war stamps in the room of Fred Peterson, ex-convict.

Peterson, on account of his previous record, being convinced he would be convicted before a jury, it is said, pleaded guilty to the possession of the stamps. Peterson is now serving a sentence in the county jail as the result."

EXHIBIT G.

From News Item Appearing in the 'Portland News.'

"New developments growing out of the war savings stamp scandal in the federal court trial now in progress today here were:

That \$5000 worth of stamps disappeared after they had passed thru the hands of three detectives who made an arrest of a petty criminal in whose possession was found stamps to the value of something like \$20,000, part of the loot from the bank of Asotin, Wash., robbed by yeggs.

That an attempt was made to bribe City Detective Tom Coleman.

That the total amount involved in the robbery of six or seven small country banks in the northwest within a space of a few months was close to \$200,000.

That the recent robbery of the Scottsburg post-office and general store was the work of a yegg gang headed by Frank Wagner, notorious safe cracker, is the opinion of Pinkerton operatives who have been working on the case.

Wagner, who was serving a 40 year sentence at Salem for the blowing of a safe at Astoria, made his escape a few weeks ago.

FENCES WERE TO SELL PLUNDER.

The theory that Wagner planned and carried through the coup of Scottsburg where \$20,000 in cash was the principal loot, was formulated when the Pinkerton man learned that Ann Bryant, 'affinity' of Wagner, has been making her home within six miles of Scottsburg during the past few months.

All of this plunder is supposed to have been brought by the bank robber gang to Portland to be disposed of thru Portland 'fence.'

Angelo Rossi, one of the six defendants in the war savings stamp controversy case now being prosecuted in the federal court, is suspected of having been the principal distributing agent and W. E. Smith, William Brenner, David Stein and Detective Bob La Salle, co-defendants with Rossi, are presumed to have been sub agents. Besides these, the United States department of justice believes that many other Portland men are involved.

‘The worst gang of yeggs that has ever operated on the Pacific coast,’ said Special Agent William Bryon of the U. S. department of justice, ‘are mixed up in this conspiracy.’

FIND BRIBE ON HIS FRONT PORCH.

That it would have been impossible for bank robbers to put \$20,000 worth of government securities on the market without the co-operation of government sleuths and of some local law enforcement agencies is the opinion of Bryon.”

EXHIBIT H.

From News Item Appearing in the “Oregonian.”

“The fate of Robert LaSalle, former inspector of the Portland police department; Angelo Rossi, Dave Stein and William Brenner, local merchants; W. E. Smith, watchmaker, and Fred Peterson, ex-convict, who is now doing a term of one year in the Multnomah county jail, all of whom are charged with conspiracy in trafficking in altered United States savings stamps, rested with a jury in the federal district court last night.

According to the federal operatives and the United States attorney's office, this case is intended to open a thorough clean-up of activities of an alleged ring dealing in stolen government securities in this section of the country, often making honest men their dupes in the disposal of the paper. In the federal officials' estimation, it is this clique that has made it possible for robbers to break into many banks in this state in the last few years, always finding ready sale for the product of their robberies, and few of the government stamps and liberty bonds have been traced. The amount lost by these robberies runs into many thousands of dollars, and the government is determined to run down the criminals."

And afterwards, to-wit, on the 10th day of January, 1921, there was duly filed in said Court, a Motion in Arrest of Judgment in words and figures as follows, to-wit:

MOTION IN ARREST OF JUDGMENT.

**In the District Court of the United States for the
District of Oregon.**

The United States of America,
Plaintiff,

vs.

A. H. Rossi,
Defendant.

Now, after verdict against the said defendant and before sentence, comes the herein named de-

fendant in his own person and by Barnett H. Goldstein, his attorney, and moves the Court to arrest judgment herein and not to pronounce same, for the following reasons:

1. That the said indictment is duplicitous in that two offenses are charged or attempted to be charged therein;

2. That the said indictment does not state facts sufficient to constitute an offense or a crime against the laws of the United States;

3. That no issue has been joined herein in that the defendant has never pleaded to this indictment; and that because of which said errors in the record herein, no lawful judgment can be rendered by the Court upon the record in this case.

A. H. Rossi,
Defendant.

Barnett H. Goldstein,
Attorney for Defendant.

STATE OF OREGON,)
 }ss.
County of Multnomah.)

I, Barnett H. Goldstein, attorney for the above named defendant, do hereby certify that in my opinion the within Motion is well founded in law.

Barnett H. Goldstein,
Attorney for Defendant.

And afterwards, to-wit: on Monday, the 17th day of January, 1921, the same being the 65th judicial day of the regular November term of said Court; present the Honorable Charles E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo A. Rossi et al.

Now at this day this cause comes on to be heard upon motion of the defendant Angelo H. Rossi for a new trial, and in arrest of judgment, plaintiff appearing by Mr. John C. Veatch, Assistant United States Attorney and the defendant Angelo H. Rossi by Mr. Barnett H. Goldstein, of counsel, and the court having heard the arguments of counsel

IT IS ORDERED that said motions be and they are each hereby denied, and that said defendant be and he is hereby allowed an exception to the said order of the court.

And afterwards, to-wit: on Wednesday, the 26th day of January, 1921, the same being the 73rd judicial day of the regular November term of said Court; present the Honorable Charles E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

The United States of America,

vs.

Fred Peterson, Angelo H. Rossi et al.

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendant Angelo H. Rossi in his own proper person and by Mr. Barnett H. Goldstein, of counsel. Whereupon this being the day set for the sentence of Angelo H. Rossi upon the verdict heretofore returned herein

IT IS ADJUDGED that said defendant Angelo H. Rossi be imprisoned in the United States Penitentiary at McNeil Island, Washington, for the term of eighteen months and that he stand committed until this sentence be performed or until he be discharged according to law. Whereupon upon motion of said defendant Angelo H. Rossi

IT IS ORDERED that execution herein be and the same is hereby stayed for sixty days from this date, and it is FURTHER ORDERED that the bond of said defendant stand until his appeal herein is perfected.

And afterwards, to-wit: on the 1st day of June, 1921, there was duly filed in said Court, a in words and figures, to-wit:

BILL OF EXCEPTIONS

In the District Court of the United States for the
District of Oregon.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANGELO H. ROSSI,

Defendant.

BE IT REMEMBERED, That upon the arraignment of the defendant in this case on the 20th day of July, 1920, the said defendant, Angelo H. Rossi, by his counsel, demurred to the indictment herein, which said demurrer being overruled, the cause thereafter, and on the 26th day of October, 1920, came on for trial without any plea to the said indictment having been made or entered by the defendant herein.

BE IT FURTHER REMEMBERED, That the above entitled cause came on for trial in the above entitled court on the 26th day of October, 1920, before Hon. Charles E. Wolverton, judge, and a jury duly empaneled to try the cause, the government appearing by John C. Veatch, assistant United States attorney for the district of Oregon, and the defendant appearing in person and by Barnett H. Goldstein, his counsel.

Whereupon the following proceedings were thereupon had:

MISS DAISY BUCKNER was called as a witness on behalf of the government, and, being first duly sworn, testified as follows:

That she lives at Scio, Oregon, and is postmistress there; that there were filed at the Scio post-office claims for the loss of registered stamps on the night of March 3, 1920.

Thereupon the witness was asked the following questions:

Q. Miss Buckner, state whether or not any claims for the loss of registered stamps on the night of March 3, 1920, were filed at the post-office at Scio, Oregon.

A. There have been.

Q. Will you just explain briefly to the jury, Miss Buckner, what these registered stamps are, and how they are registered, so that they may understand it.

Thereupon the defendant interposed the following objection to the question last set forth, and the following proceedings were thereupon had:

MR. GOLDSTEIN: Just a moment. If the court please, it seems to me that the best rule probably would be with respect to introducing any regulation as to the method of registering the stamps at this time,—I particularly call your Honor's attention to the fact that it is not alleged anywhere in the conspiracy indictment that any of the defendants ever had anything

to do with registered stamps. It does not allege that any of these stamps had been registered, if such be the fact.

MR. VEATCH: I would like to call the court's attention that the indictment not only charged conspiracy to defraud the Government. It would be immaterial whether or not there was such an allegation in the indictment, if it developed at the trial of this case that the scheme that was entered into by the parties here was a scheme to defraud the Government and was a scheme that would be calculated to defraud the Government. They are charged with removing a certain registration and identification number from the face of these stamps in the carrying out of that scheme. It is perfectly proper at this time to show the particular stamps that were found in the defendant's possession had a certain registration number on them, for the purpose of identification, to show where these stamps came from.

COURT: I don't think it is necessary under the allegations of the indictment to allege that the stamps were registered. It is sufficient that there was a scheme to defraud—a scheme to get hold of these registered stamps and to dispose of them in fraud of the Government. I think the indictment is sufficient to allow that. The objection will be overruled.

Exception allowed.



Thereupon the witness continued her testimony as follows: That the regulations governing the registration of war savings stamps are that stamps may be registered at any first, second or third-class postoffice, regardless of when or where they were purchased or by whom, except that stamps to be registered must have been pasted upon certificates; that the stamps are each canceled separately by means of a rubber stamp bearing the postoffice number and the serial number on each stamp; that when a stamp is registered, the postoffice number is written across the face of it with ink or stamped; that the postoffice number is placed above the serial number, which begins with No. 1 and is numbered consecutively; that the postoffice number of the Scio postoffice is 50819. The witness then identified a reproduction made by herself of a registered stamp as registered in the Scio postoffice, which was offered and received in evidence and marked "Government's Exhibit 1," the top number thereon being the postoffice number, and the second number being the serial number; that every stamp registered at the Scio postoffice bears the same postoffice number, to-wit, 50819, but the serial number varies, depending upon the time when the stamps are registered. The witness further testified that the stamp used in making the impression on Government's Exhibit 1 is the stamp used by her in registering the stamps at the Scio postoffice; that the ink used on this exhibit was used on part of them, but not all, some being black, while the ink used on the exhibit was red, depending upon the

condition of her pad at the time the stamps were registered; that when the stamp is registered it is returned to the owner, and the postoffice keeps a record of the registered stamp; that the Government will not insure the holder of stamps indemnity in case they are lost, stolen or burned except when they are registered; that in case they are registered the Government will issue new stamps or pay for them. The witness further testified that perhaps 20 or 30 people in the vicinity of Scio made claim at the Scio postoffice after March 3, 1920, for replacement of stamps that were lost; that the names of the parties making claims for stamps were as follows:

Edward D. Jones, Minnie D. Jones, Albert E. Randall, Mrs. Rosella White, William A. White, Mrs. Elizabeth J. Ewing, George M. Bilyeu, Clarence Roy Scott, Marjorie Moses, Grace Bilyeu, Anton Holub, Daisy Buckner, Vaclav Proop, Waunita Stepanek, Viola Stepanek, Mrs. Ollie MacDonald, Fred Jones, Robert G. Daniel, Frankie Holub, Mrs. Melvina Randall, W. R. Kelly, W. J. Kelly, Effie Rodgers, James Keith White, Ephriam Piatt, Ruth Eichinger, Mary Holub, Melda Bilyeu, Guy Funk, J. T. Funk, Mrs. S. O. Funk, Mrs. Nancy D. Arnold, Wilbur Funk, F. J. Denny, Chas. A. White, William Phillips, Elva Phillips, C. E. Sargent, Joe Holub, Frank Shindler, J. A. or Minnie D. Craft, Mrs. Lulu Quinn, C. H. Rockwell, Eleanor Shimanek, Mrs. Emma Holub, Mrs. Mary E. Richardson, Verlin Richardson, Thomas A. Richardson, Thomas P.

Prospal, Mrs. Cora Eichinger, Antonie Prokop, John W. Scott, Glen A. Scott, C. A. Silbernagel, Rosa Silbernagel, John Soucek, Fred Mespelt, Frances Higinbotham, Eldon Vaughan, Mrs. Emma Cain, and Napoleon B. Moses.

The witness further testified that the claim for replacement of these stamps was based on the loss through the Scio Bank; that she was prepared to set opposite the names read the number of the certificates and the number of the stamps on each certificate, together with the serial number on the certificate.

Upon cross-examination witness testified that under the rules and regulations of the department she did not register loose, separate stamps; that the only time registration was made was when a stamp was attached to the certificate and the name of the owner appeared on the certificate; that stamps unless registered are not subject to the protection of the Government in the event that they are lost, stolen or burned; that loose stamps separate and apart from certificates were not registered either with the postoffice number or the serial number; that the Government assumed no responsibility for loose stamps that are not part of a certificate; also that the Government assumes no responsibility even if the stamps had been attached to certificates unless they had been properly registered with the postoffice.

Upon redirect examination witness testified that stamps registered at the Scio postoffice could not

be redeemed at any other postoffice except by means of a special form prepared by the Government, which would have to be sent by the postoffice, at which the redemption is sought, to the Scio postoffice; that the record would have to go through the Scio postoffice before it would be paid.

Upon recross-examination witness testified that it would take about five minutes, if a postoffice had the money, to redeem a registered stamp certificate; that the postoffice department, however, reserved ten days within which to redeem registered stamps, but that such time is not absolutely required if the postoffice has the money.

Upon redirect examination witness testified that the ten-day period for redemption is simply to allow the local office to get the funds on hand to pay for the stamps; that the Government does not require it redeemed in less than ten days, but could redeem it immediately if it had the money.

Later during the course of the trial the witness was recalled and testified that she had prepared a list of the registered war savings stamps for which claims had been filed at the Scio postoffice, giving the serial number of the certificates, the serial number of each stamp, the names of the owners on the certificates, and the number of stamps on each certificate; that the total number of said stamps was 3137.

Whereupon the following proceedings were had upon the offer made by Mr. Veatch, assistant United States attorney, to introduce the list in evidence:

MR. VEATCH: I offer that in evidence at this time.

MR. GOLDSTEIN: If the court please, at this time on behalf of the defendants Messrs. Rossi, Brenner and Smith I interpose this objection: There has as yet been no proof of any conspiracy between these defendants, or that any conspiracy had been entered into that these defendants at any subsequent time engaged in. I further object upon the ground and for the reason that there has as yet been no connection submitted of any of the stamps that had been registered with the postoffice authorities as having at any subsequent time come into the possession of any of the defendants or either of them, by any serial number or otherwise. I also object for the further reason that there is nothing in the indictment that alleges any of these stamps that these defendants are said to have conspired to have altered had in the first place been registered stamps, or had been registered with the postoffice department. And if any evidence of that character is introduced, it can only be introduced for one purpose and one purpose only, and that is, for the purpose of proving an intent after a conspiracy had already been established and proven; and then only after a jury had been cautioned and warned that that intent is only to be considered after they are convinced beyond a reasonable doubt that a conspiracy had been entered into, and that is no evidence of the commission of the identical and specific offense for which the defendants are charged. I further contend that it is unfair to submit any record of the loss of stamps that had been registered by the postoffice department,

unless there is some connection showing that any of these particular stamps had come into the possession of any of these defendants, either directly or indirectly, and there has been no such proof. And I make this objection particularly with respect to the defendants that I represent.

Objection overruled. Exception allowed.

Upon cross-examination witness testified that the list being "Government Exhibit 5," indicated that a number of people came to the postoffice, of which she was the postmistress; that a certificate upon which was impressed a number of war savings stamps, and each certificate was fully and completely made up, bearing the certificate number on the top of the certificate, the name of the owner on the certificate, and each certificate had at most 20 stamps, and in some instances less than 20 stamps; that she registered these certificates at the request of the owners, or those who presented stamps to her; that she registered no stamps unless the stamps were a part of the certificate, bearing the certificate number and containing the name of the owner upon the certificate; that she could not say of her own knowledge where any of the certificates with these stamps that she registered were at that time; that she could say of her own knowledge that some of these certificates with stamps bearing the registration number of her postoffice had been stolen; that she could do so with respect to 13 of her own certificates out of 170 that had been intrusted to the bank; that she was at the bank the morning after the robbery occurred and saw the

condition; that she was not able to tell who secured these stamps or certificates; that she did not know whether the defendant Rossi ever got any of the stamps or these certificates; that she did not know whether any of these defendants removed any of the stamps from the certificates that had been registered; that she did not know whether any of these defendants altered the stamps by erasing the registration number so placed upon the stamps; that there was no regulation preventing any one from buying through the postoffice single, separate, individual stamps, and it is only when one wants to get value therefor from the postoffice that it is necessary to secure a certificate either from some postoffice or some bank, which certificate is given gratuitously, and then when it is desired to cash the stamps, they are placed upon the certificate, and upon submission to the postoffice the holder gets whatever it is then worth.

Thereupon W. R. BRYON was called as a witness on behalf of the Government, and, being first duly sworn, testified as follows:

That he was an agent of the Department of Justice, and was such during the month of March and to the month of May, 1920; that about May 10, 1920, he had an interview with the defendant, Angelo Rossi, at his office in the postoffice building, at which there was present besides himself Miss Doeltz, the stenographer, and John Price; that Rossi was being interviewed with a view of ascer-

taining information about war savings stamps; that he was not under arrest at that time.

Whereupon the witness was asked the following question:

Q. State, Mr. Bryon, as near as you can recollect, what was said by Mr. Rossi at the time.

Whereupon the following proceedings were thereupon had:

MR. GOLDSTEIN: If the court please, it is the contention of the defendant, Mr. Rossi, that any statement he made was an involuntary statement, a statement induced from him by reason of certain promises and representations made to him by a responsible representative and officer of the Government. It is contended that Mr. Rossi had prior thereto made a statement to Mr. Glover, who was the agent in charge of the secret service department of the United States.

MR. VEATCH: Are you testifying before the jury?

MR. GOLDSTEIN: No, I am not testifying, but that is our contention. I would like to ask certain qualifying questions of Mr. Bryon before he states anything Mr. Rossi said.

COURT: Very well.

Examination by Mr. Goldstein.

Q. Mr. Bryon, you knew that prior thereto Mr. Glover, who was the agent in charge of the secret

service department charged with the responsibility of protecting Government obligations, had made an exhaustive investigation concerning these identical war savings stamps. You knew that, did you not?

A. I did not.

Q. You say that you didn't know that Mr. Glover had been investigating or had been on this case before you got in on it?

A. What is that?

Q. Do you mean to say that you didn't know that Mr. Glover had been investigating this case and had been attached to the case before you were called in on it?

A. I do. I mean to say that absolutely, that I didn't; that I didn't know that he had anything to do with it.

Q. Then I understand you, Mr. Bryon that on May 10, 1920, when you were investigating and interviewing Mr. Rossi you never knew that Mr. Glover had anything to do with that case before that time?

MR. VEATCH: He stated he did.

MR. GOLDSTEIN: You did know he had. I thought you said you didn't.

A. You want to know whether I knew that Glover was investigating war saving stamps or not?

Q. Was investigating that case before you were called in on it.

A. I didn't know anything about Glover having anything to do with war savings stamps.

Q. What did you think he had to do with?

A. I could only assume he had something to do with some bonds, but I never talked to Glover about them.

Q. Didn't you know Glover had been talking to Rossi before you talked to Rossi?

A. No.

Q. Didn't you know that Glover—Glover and his assistant, Mr. Walters, had caused the arrest of Mr. Peterson?

A. I knew that just by the press, yes.

Q. By the press?

A. Yes.

Q. Considerable press notoriety about it?

A. Yes, sir.

Q. And at the time—how did you happen to be called in on that case?

A. Well, now, just what do you mean—where and when?

Q. How did you happen to hold this interview with Mr. Rossi on May 10th? At whose request?

MR. VEATCH: Tell the whole story, Mr. Bryon, since he has asked for it.

MR. GOLDSTEIN: Just a minute. Mr. Veatch has interrupted. I asked you a very simple question, at whose request. Name the gentleman at whose request you were called in to make this investigation.

A. Well, let me explain to you so you will understand me. I am trying hard to understand you, but I can't do it. Now you try to understand me.

Q. Just a moment, Mr. Bryon. I fully appreciate your wanting to testify, but I want to know at whose request. Was it at your own request, or was it at Mr. Veatch's request, or was it at the request of the department for whom you are working?

A. That I did what?

Q. That you interviewed Mr. Rossi. How did you happen to have him in your office? At whose request?

A. Nobody's.

Q. Did he come of his own volition?

A. No, sir.

Q. Who brought him in there?

A. Two of my agents.

Q. At whose request did they bring him in?

A. At my direction.

Q. And why did you direct them to bring in Mr. Rossi? Who authorized you to do it?

A. Because I wanted to talk to him.

Q. Why did you want to talk with him?

A. I wanted to ask Mr. Rossi what a certain telegram meant which he sent to a man who gave the name of Lee, in which he said the goods are all rusty.

Q. Who gave you that telegram?

A. Charlie Welter. No, he never gave me the telegram. Charlie Welter gave me the information.

Q. Well, did you see the telegram?

A. I never did.

Q. Then Mr. Welter, of the postoffice department, was the man who asked you to investigate and get this information from Mr. Rossi? Is that correct?

A. No, sir.

Q. Did you do this of your own initiative or without consulting with Mr. Veatch?

A. Well, you mean to talk to Rossi?

Q. Yes.

A. Talked to Rossi of my own initiative.

Q. Did you know then that he was the subject of investigation because of his possession of some war savings stamps?

A. No, sir.

Q. That was news to you, was it?

A. Yes, sir.

Q. And when you called him in, how did Mr. Veatch happen to be there?

A. He walked in the door.

Q. Oh, by accident?

A. Yes, sir. Well, I could not say by accident. He may have had something in his mind. I don't know about that.

Q. Do you mean to say that you didn't notify Mr. Veatch that Mr. Rossi was there?

A. I don't recall that I did.

Q. Did he know that you were going to have—

MR. VEATCH: If the court please, that is the Government's witness, called by the Government. It seems as though the defense is attempting to conduct all the examination here. I think if you will let Mr. Bryon tell the story as to how he happened to call in Mr. Rossi, what was the occasion for calling in Mr. Rossi, it would only take a very few minutes to bring it all out; and then he can cross-examine to his heart's content.

MR. GOLDSTEIN: Mr. Veatch, the purpose of my questioning is very apparent. He has already volunteered certain information with respect to why he called Mr. Rossi.

Q. I want to know whether this meeting of yourself and Mr. Veatch was arranged for in advance.

A. What meeting are you talking about now? I have a right to know what you are trying to get at, and I will answer you. I don't want to quarrel with you. Now, what meeting are you talking about?

Q. May 10th. That is what Mr. Veatch was asking you about.

A. Mr. Veatch didn't say May 10th. Mr. Veatch said on or about May 10th, and I answered his question.

Q. You stated that on or about May 10th you, Mr. Doeltz, Mr. Veatch and Mr. John Price were gathered in your room, and Mr. Rossi made certain statements to you with respect to certain war savings stamps.

A. I did, yes.

Now, I want to know whether that conference or meeting had been prearranged.

A. No, sir.

Q. It was just purely accident?

A. There was no pure accident about it. There is nobody can tell at what stage an investigation is going to require the presence of a number of people. You well understand that.

Q. Was there any part of the stage of that investigation that would impel you to send for Mr. Veatch to be present?

A. There was, yes.

Q. Then I get from you that you did call for Mr. Veatch.

A. I don't recall the instant, but there was an occasion where I could have sent for him and would have sent for him, and where his presence was required.

Q. If it was necessary you sent for Mr. Veatch and he came?

A. I am not saying I did send for him, for my memory don't serve me that I did.

Q. He was there?

A. Yes, sir.

Q. Did you notify him he was liable to be arrested for any connection with war savings stamps?

A. Mr. Rossi?

Q. Yes.

A. I don't think I told him he was liable to be arrested.

Q. Did you notify him at any time of the proceedings that you would arrest him if he didn't divulge certain information you wanted?

A. I did not.

Q. Did you at any time notify him of his rights as a prospective defendant?

A. I did thoroughly.

Q. At the beginning?

A. Yes, sir.

Q. You told him that he didn't have to make any statement unless he desired to do it voluntarily?

A. I did, yes, sir.

Q. You also told him that anything that he might say might be used against him in the event he might be indicted?

A. I did, yes, sir.

Q. You stated that in the presence of whom?

A. In the presence of Rossi.

Q. Who else?

A. John Veatch.

Q. Who else?

A. John Price.

Q. Did Mr. Veatch give this information or did you?

A. He enlarged upon it.

Q. He enlarged upon it?

A. Yes, sir.

Q. Did Mr. Veatch give you to understand that he had already had conversation with Mr. Rossi prior to that time?

COURT: It is apparent Mr. Rossi had been advised of his rights. I don't think you better take up the time of the court with further examination.

MR. GOLDSTEIN: Just one or two questions.

Q. This statement Mr. Rossi gave was given to you with knowledge of those rights that you communicated to him?

A. Yes, sir.

Q. In the presence of Mr. Veatch and Mr. Price and Miss Doeltz?

A. Yes, sir.

Q. Was it transcribed?

A. Yes, sir.

Q. Have you got the original transcript?

A. I have not.

Q. Beg pardon?

A. Not in my pocket, no.

Q. There was written testimony taken down?

A. There was.

Q. Did he sign his name to it?

A. He did not, that I know of.

MR. GOLDSTEIN: I therefore suggest that the written transcript would be the best evidence.

COURT: I don't think so.

MR. GOLDSTEIN: Take an exception.

The witness over the objection and exception of the defendant was thereupon permitted to continue his testimony. He stated that as agent of the Department of Justice it was part of his work to investigate altered or forged obligations and securities of the United States; that this particular case was not handled by him in the beginning; that he came into it at the request of Mr. Veatch, assistant United States attorney.

Whereupon the following questions were asked and the following answers given:

Q. What was first said when he was first brought into the office?

A. I called him in there and asked him about this Earl Lee, what business he had with Earl Lee, and what he knew about him.

A. About May 4th or 5th you came in my office to talk to me about this man Lee. Is that what you want?

Q. Yes.

A. Is that where you want me to start?

Q. Let's get down to this. Did you say that I was called in or Miss Doeltz called in, after Rossi was called in? I want to get the substance of the conversation. You say Miss Doeltz took down what was said in there. I want to get whether or not there was anything said by Mr. Rossi before Miss Doeltz came in to take down the statement.

A. Yes, there probably was a few words; a little. I don't know that it was of anything important. There might have been something said. He came first.

Q. What was said at that time.

A. By Rossi?

Q. Yes.

A. Rossi told me that he knew something about this, and that if I had any idea that he was going to give any testimony about it I might as well forget it, and throwed his fist down on the desk and made everything jump in the air. And if you want to know what I said I will repeat it.

MR. GOLDSTEIN: Go ahead. Tell what you said.

A. I told him that he was not conducting any investigation or running any part of the Government business, and that if he wanted to make any such statement as that to go downstairs and tell it to the court on the second floor; that he had a way of dealing with him; that he nor nobody around there would direct who would testify or who would not testify, or when they would testify, and that he would not be consulted concerning the operation or the direction of any Government investigation, nor be asked any suggestions. All he had to do was to answer a few simple questions.

Q. Did Mr. Rossi say anything to you, Mr. Bryon, about any other department of the Government being concerned in this case?

A. He said that he had given some information.

Q. Did he say to whom he had given some information?

A. He said he had given it to a man by the name of Glover.

Q. Any one else?

A. Well, I don't remember whether he said any one else at that time. I think that came out later that he had given information to some one else. But I don't think that came out right at that time. I know it didn't.

Q. State whether or not there was anything said about that time about any promises to Mr. Rossi.

A. What he said?

Q. Yes.

A. He said that he had been promised protection and immunity.

Q. He said that he had been promised protection and immunity?

A. Yes, sir.

Q. Did he say by whom such a promise was made?

A. By Mr. Glover.

Q. That is Mr. William Glover?

A. That is who I assumed he meant.

Q. Well, that was about the substance of the conversation, was it, before Miss Doeltz was called in?

A. Yes, sir; about that time you came to the door yourself.

Upon cross-examination witness was asked if he did not state that on May 3, 1920, seven days before he had his first interview with Rossi, he was called in the case by Mr. Veatch, the witness stated that he was not sure as to the time when Mr. Veatch first talked anything to him pertaining to this case; that he did not at that time tell him it did pertain to this case; that it subsequently developed that it did; that he was not asked to take charge of the case nor was he asked to investigate the disposition

of war savings stamps or liberty bonds; that he was not supposed to investigate at all; that he was counselling with Mr. Veatch as to how a certain matter could be investigated; whether a man giving the name of Earl Lee was telling the truth; that at that time nothing was said to him about Mr. Glover investigating the war savings stamps' case; that nothing was said about Rossi or about any of the other defendants in the case; that on May 13, 1920, he sent some of his operatives to bring Rossi to his office, which was the first time he talked with Rossi.

The witness was thereupon asked the following questions, and the following answers were given:

Q. I further understand you to say that it is a part of your duty to enforce the law with respect to war savings stamps. Is that correct?

A. Well, I don't know exactly how to answer that. I never said anything about that. What do you mean? In what connection?

Q. I think you stated—Mr. Veatch asked you if part of your duties was to enforce—

A. He said something about securities.

Q. Yes, war savings securities or rather securities of the Government.

A. Part of my duties covered that. It is pretty hard to draw the line on it.

That at this first conversation the witness had with Mr. Rossi, and before Miss Doeltz or any one else came into the room, Rossi told him at the outset that he had given certain information to Mr. Glover, and because of that information Mr. Glover had promised him immunity; that witness knew as a matter of fact that Mr. Glover was the agent in charge of the United States secret service; that after he made that statement witness told Rossi that he wanted him to explain certain transactions in which he was alleged to be involved, and that upon his refusal to tell him witness told Rossi that he could go down to the second floor and tell it to the judge; that Rossi, however, did make a statement thereafter which Miss Doeltz transcribed, and that witness was present most of the time that the statement was being made; that Rossi made a statement that he knew something about these stamps, which statement was made after he had told witness about Mr. Glover's promising him immunity; that Rossi in this statement told him that he had some of these stamps and that he sold some of them, and told in part to whom he sold them.

Thereupon the following questions were propounded to the witness, and the following answers given by him:

Q. Well, then, he did furnish you a statement?

A. Eventually he gave some information, yes.

And that information was given in the presence of Miss Doeltz and Mr. Veatch?

A. Yes, sir.

Q. What did you say to him in response to his information to you that he had been promised immunity by Mr. Glover?

A. I told him that he would not direct any information or any inquiries the Government was making; none of his advice was wanted. All that I wanted to know was what he knew about this telegram.

Q. Did you speak rather harshly about Mr. Glover?

A. I made no reference to Mr. Glover at all, and passed off the statement that Mr. Glover was the man he was doing business with, as though it made no impression on me. I didn't want to make any reference to Glover.

Q. It made no impression?

A. I say I passed it off in a way it made no impression.

Q. Did you expect to call up Mr. Glover to check up Mr. Rossi's statement?

A. I didn't.

Q. That is in effect all the transaction you had with Mr. Rossi?

A. I will say yes.

Thereupon MISS HARRIET DOELTZ was called as a witness on behalf of the Government

and, after first being duly sworn, testified as follows: That she was a stenographer in the office of Mr. W. R. Bryon, of the Bureau of Investigation; that she was present at an interview with Mr. Rossi some time in the month of May, which it was later stipulated was May 13, 1920, and took notes of the conversation that took place at that time and transcribed the same. The witness thereupon read her notes to the jury, which were as follows:

MR. VEATCH: You understand this, Rossi, that you are not required to tell me anything, but whatever you do say here can be used against you. You are in no position to tell us what you will do or what you will not do. There has been certain Government property that has been stolen. It is our business to find out the men who are guilty, and it is our business to find out who all is mixed up with it. You have been called in here and given an opportunity to explain what you know about it because we know you have had correspondence with certain of these men who we know stole certain Government property—now if you are one of that bunch we want to know it.

A. I am not.

Q. If you are not one of the bunch, now is the time to clear it up, but remember this, that when it comes to the time of trial and it is necessary for us to use you, you certainly will be called as a witness. Now, we are not promising you anything. You are in no position to demand anything.

A. Well, as far as that correspondence is concerned, there is nothing in that correspondence that can get me in wrong with the Government. I know that.

Q. Well, what about going down to the U. S. Bank and getting these blank certificates for war savings stamps.

A. Yes I did go down.

Q. And put war savings stamps on them.

A. Yes.

Q. Where did you get those stamps?

A. Got them from a fellow named Whitey.

Q. Swede Whitey?

A. Yes.

Q. The fellow now under arrest?

A. Yes.

Q. When did you get them from Whitey?

A. Well, I couldn't tell you the date exactly—it was a few days previous to the time I went down—

Q. How long have you known Whitey?

A. Two years.

Q. Well, you know Whitey is a Yegg?

A. I got acquainted with him when he got paroled out of Salem; when he was working in the shipyards.

Q. Didn't you know these stamps were stolen?

A. No, I never asked those fellows any questions. There were enough stamps for seven books and maybe twenty or twenty-five over.

Q. Well, you had reason to suspect those stamps were stolen.

A. Well, it's just like this—you have to consider the source. I knew when I had that store—Swede Whitey bought stamps when he worked in the shipyards because it was compulsory; but that happened a couple years ago.

Q. Did you pay him anything for those stamps?

A. No, sir. He wanted me to dispose of them.

Q. He wanted you to sell them?

A. Yes, sir.

Q. Do you run a pawnshop?

A. No, sir.

Q. How did he happen to be selling stuff to those people?

A. Well, I don't know. That particular time he came into the store and bought a ring off from

me. He asked if I could dispose of stamps for him. I told him I didn't know—every jeweler, in fact 90 per cent of the men on the street will buy them and take them in on sales, and like that.

Q. Well, did you try to sell any of them?

A. Yes.

Q. Where?

A. I asked two or three people.

Q. Whom did you ask?

A. Well, I asked a fellow by the name of Dave Stein, but he said he would buy them if they were on books and he got a bill of sale. Well, just about that time the secret service men came into the store and I didn't have time to do anything with them.

Q. Did you try to sell to anyone besides Stein?

A. Yes, I did. Two or three different pawnshops, but they wanted them for nothing, you know.

Q. What did you do with them then?

A. Well, I had them in the store and Joe Walters, of the secret service, came into the store and said: "Rossi, have you any war savings stamps?" I said I did. He said: "How many?" I said I had seven books of them. He said: "Where are they at?" And I handed them to him. He asked me if I had anymore, and I gave him the rest. He asked me where I got them, and I told him, and he went up and got Swede Whitey and they ar-

rested him, so I didn't have the stamps in my possession more than about, I should judge, a day and a half. It might have been two days.

Q. Rossi, do you know you are violating a law when you have this in your possession?

A. I didn't know it then but I know it now—Glover read the law to me. When they came into the store and I saw they were on the case I didn't hesitate. I said: "If they are crooked I don't want them," and I gave them the stamps in two minutes. In fact, I was making no secret about disposing of them. I asked several people: "Do you need war stamps—at a slight discount?" Whitey was asking \$3.75 each for them.

Q. Has John Bull a solution that will remove registry numbers?

A. When I got these stamps I noticed a peculiar odor, but I couldn't see any number on them.

Q. What did you mean, Rossi, when you said here that you wouldn't take the stand in this case?

A. Because they suspicioned that I was responsible for Swede Whitey and all the rest of them getting pinched and my 'phone rang so much—I have been compelled to carry a gun for the last three or four weeks because if I saw one of these fellows and they didn't look right to me I would see that I started shooting first. I know them people better than any one in Portland—I know what they are capable of doing.

Q. Have you gotten other stuff from these fellows?

A. No, absolutely not, never.

Q. Did you ever go as a fence for them.

A. No, sir. They never used to come near me because I never really had enough money. They do business with people who have plenty of money. The only thing, I knew Johnny Bull years ago; in fact, he is the only one I knew of that gang, although the local policemen think I acted as a fence for those boys. They never gave me 10c worth of stuff, never. I don't know whether your office is connected with Glover's office. Glover can tell you that it was through me they got all they did get and I helped them; gave my time to it; neglected my business and everything else to help Glover on that case, with the understanding, positively, that I would not get mixed up in court with it. I thought I did enough. I personally accomplished for them what has been accomplished.

Q. Were you the informant then that Walters refused to tell his name at the hearing up here?

A. Well, I don't know. I suppose so, unless he was referring to somebody else.

Q. At the time of the commissioner's hearing—

A. I don't want to be classified as an informant or anything else. It was simply when they came, I told them the truth, that's all.

Q. That's all you can do anywhere.

A. Yes, a man is foolish if he doesn't.

Q. At the time of the commissioner's hearing, Mr. Walters was asked if he had ever seen these stamps before, and he said he had but refused to tell where he saw them, because it would be to his informant—that an officer is not required to tell where he got the information. You understand this man Lee was arrested in Idaho?

A. Yes.

Q. And certain correspondence passed between you and Lee?

A. Yes.

Q. You understand that we know Earl Lee, Johnny Bull and Swede Whitey robbed the Scio bank?

A. Well, that's what I heard. I never believed Lee had anything to do with Johnny Bull. He said he did in letters he wrote, because at that time Earl Lee was in trouble with an automobile, and I was giving him money to live on, and I couldn't figure how he got in on that job—of course, he may have been 'pulling' me.

Q. Earl Lee was in trouble with an automobile?

A. Well, he bought a machine and forgot to pay for it, that was all.

Q. What kind of a machine did he get?

A. Hudson Super-Six.

Q. Well, Rossi, I don't know anything about your connection with them except what you told me.

That is the only connection I had. In fact, I never saw any of the fellows previous to a year ago.

Q. Who is "Nellie?"

A. I heard she is pretty—well smart woman. She seems to handle the bank roll.

Q. She lives with Tom Shay?

A. I always thought she lived with Gleason.

Q. Well, Tom goes by the name of Malone?

A. I'm not personally acquainted with him, only what I heard of him. He is a kind of a safe cracker.

Q. You don't know whether Nellie is living with Gleason or Shay?

A. I always thought she lived with Gleason, from what I heard.

Q. What do you know about Nellie?

A. I don't know her personally. I wouldn't know her if I saw her. Just heard the fellows talk about her. Johnny Bull seems to think a lot of her. My own personal opinion is that that woman used to do the locating for that gang.

Q. Well, Rossi, the Government has started out to clean out this whole bunch.

A. Well, it's a good job. I'm surprised they didn't do it years ago.

Q. We are not asking you to be an informant on anybody, but we have run onto your trail in investigating this case. All we ask of you is simply to tell the truth.

A. Well, I'm giving it to you. As I say, that gang kept away from me. Of course, I always knew in my own mind that they were responsible for these robberies that were going on—they always seemed to have money. Of course, a man didn't have proof of what they were doing. I haven't seen Johnny Bull now for at least eight months. About a year and a half ago he used to come down pretty often, but something happened at that time, and they got suspicious and kept away; and it, of course, pleased me.

Q. You are in this position: As I say, we have run onto your trail in investigating this case. There have been two sets of officers working on it. A part of the information we have in connection with this came through the secret service, and a part of it has come through Mr. Bryon's office. Now, we are going to clear this thing up from top to bottom, and every man who knows anything about it is going to tell what he knows about it. That is clear, is it? You are in no position to say here what you will or will not testify to. The only thing you can say is you will tell the truth. That is all we ask you to do.

A. I have told you the truth. I have told Glover the truth, and if the word of the secret service is not good—

Q. Well, I am not in the secret service. I am a prosecuting officer.

A. They have me to thank for what they accomplished in this case.

Q. We know more in this case than what you have told us, that didn't come from the secret service.

MR. BRYON:

“Salt Lake, 5:21 p. m. Evans State Bank, American Falls Draught Earl Lee Evans State Bank Draught Earl Lee 50.00 Pomade A Rossi everything rusty sending letter to nite Pendleton Ore. Tragent”

Q. Now, Mr. Rossi, does that refresh your memory any?

A. I sent a telegram but I never mentioned anything about a letter to Pendleton, Oregon. I don't understand that.

Q. That is just the reason I am reading it to you, to give you time to refresh your memory and get it right.

A. Yes, I sent telegrams, but that has nothing to do with this stamp case—the yeggs—absolutely not.

A. I bank at the Ashley & Rumelin Bank as Angelo H. Rossi. I got the stamps at the U. S. hotel, 2nd and Main streets, I think, in Whitey's room. There was no one present except Whitey and Johnny Bull.

MR VEATCH:

You say this fellow Stein was one of the fellows you attempted to sell to?

A. Yes, I asked him if he could use any and he said he would let me know, and then the secret service men came. I went to see a man previous to that named Sitton, but he wouldn't have anything to do with them. When I saw Mr. Sitton they were loose. I just told him I have a few stamps; that he was kind of a speculator, and asked him if he could use them. He said, "Well, I'll look them up." He went to the Federal Reserve Bank and looked them up, and said they were no good, only on certificates, so I went back and got certificates. That same afternoon Walters came into the store and I gave the stamps to him.

Thereupon P. A. YOUNG was called as a witness on behalf of the Government, and, after being first duly sworn, testified as follows:

That he was foreman of the grand jury that returned the present indictment against the defendant Rossi and the other defendants; that he was present in the grand jury room at the time Rossi appeared before the grand jury; that Rossi came of his own accord and was warned that whatever he said would be used against him; that he

was carefully warned by the attorney in charge of the investigation, the said attorney being Mr. Veatch, the assistant United States attorney.

Thereupon the following questions were asked, the following answers given, and the following proceedings had:

Q. Did Mr. Rossi make a statement before the grand jury concerning the stamp transactions now under investigation?

A. He did.

Q. Will you state, Mr. Young, to the best of your recollection, what was said by Mr. Rossi at that time?

A. Do you object to my referring to my notes, or to notes that were taken by the secretary at the time?

MR. GOLDSTEIN: Can you testify of your own recollection, Mr. Young?

A. It has been some time, and those affairs are not affairs of my own particular line of education and business.

MR. GOLDSTEIN: That was not the question, Mr. Young. Pardon me, I merely asked you whether you can testify to any statements made by Mr. Rossi, right now, at this time.

A. Oh, a great many of them, yes.

EXAMINATION BY MR. GOLDSTEIN:

Q. You are able to give a statement of that. So faras those notes are concerned, you will admit, Mr. Young, you did not make those notes?

A. Some of them.

Q. Did you make any notes of anything Mr. Rossi said?

A. No; not in this.

Q. The general rule with respect to grand jury procedure is for the secretary to take the notes in the best way he can longhand?

A. While the secretary was absent I took a great many of the notes myself, that is, with respect to some of the testimony in this particular case.

Q. That is a little out of the ordinary, because the foreman does not like to do that work. But in any event, so far as the defendant Rossi is concerned, you didn't take any of the notes in your own handwriting of the things that he said?

MR. GOLDSTEIN: I therefore suggest, your honor, that Mr. Young do the best he can from his own recollection.

A. I will do so.

COURT: He can do that, and then he can refer to the notes if there are things he can't recollect about.

MR. GOLDSTEIN: We will see how he gets along.

Examination by Mr. Veatch resumed:

Q. All right, Mr. Young.

A. Mr. Rossi told us that he had had several stamp transactions, and I believe he began with one with reference to Mr. Sitton. He said that he had received stamps from—

MR. GOLDSTEIN: Pardon me, when was the grand jury investigation at the time he made this statement; was it in the month of May, 1920, or June?

A. May, wasn't it?

MR. GOLDSTEIN: The month of May?

A. Yes.

MR. GOLDSTEIN: It was in May, 1920, in any event. At this time, if the court please, I think it is only fitting and proper that the jury be warned and cautioned that, so far as the statements of Mr. Rossi are concerned, while they may be admissible as against him, in view of the fact that the conspiracy had long since ended, therefore any statements that Mr. Rossi made to him cannot in any event be considered binding upon any other defendants in this case, or cannot be considered in any event as proof of a conspiracy, being a declaration of a past event. There should not be any confusion or misunderstanding as to the extent and limitation of

this particular testimony. I therefore move at this time that the jury be so instructed.

COURT: Why do you insist on those instructions? I have already instructed the jury in substance as you have indicated, and I don't think that I will pick out individual circumstances and undertake to instruct this jury every time the question arises. The court will protect these defendants upon that line of investigation.

MR. GOLDSTEIN: In order that the defendants' rights may be further protected, I take an exception to the not giving of that instruction at this time.

COURT: You may have your exception.

MR. LONG: If the court please, I would like to have that request of Mr. Goldstein run to Mr. Peterson also, and exception.

COURT: Very well. All the counsel may have it.

Q. Did Mr. Rossi say anything about where he got these stamps?

A. He told us that they came from Mr. Peterson.

Q. Did he make any statements as to where the transactions with Mr. Peterson took place?

A. The transaction, the first transaction, I believe, took place in his store.

Q. In Rossi's store?

A. In Rossi's store, and afterward took place in Mr. Peterson's room.

Q. Did he say anything about the time of day on which the second transaction took place in Mr. Peterson's room?

A. I think it was about 7 o'clock in the evening.

Q. Did he say who was in the room at the time.

A. Yes. He said Johnny Bull, Mr. Peterson, and, I believe, he said that Russell Shawhan—

Q. State whether or not Mr. Rossi made mention of any other stamps or bonds in Mr. Peterson's room, at the time he made this second purchase of stamps.

A. We were asking him in regard to whether he thought the stamps were stolen, and he said that on the dresser, as he passed by, he saw a \$1000 bond and a \$500 bond, and he suspected that they were stolen.

MR. GOLDSTEIN: What were stolen?

A. That the stamps and the bonds probably were stolen, that was his version of it.

Q. Did he say anything about getting any stamps from Peterson or any one else after this time?

A. Well, I could tell by referring to the notes, but I don't recollect it.

Q. Well, do you recall, Mr. Young, whether or not Mr. Rossi made a statement of the individuals to whom he had sold or delivered the stamps?

A. Yes.

Q. Whom did he mention?

A. He first mentioned Mr. Brenner and then Mr. Smith, and Mr. LaSalle and Mr. Stein. I think that was all Mr. Rossi mentioned to us.

Q. Did he mention any one by the name of Mr. Sitton?

A. Yes, sir; but he told us that that transaction was previous to this transaction with Mr. Peterson.

Q. He stated the Sitton transaction was previous?

A. Yes, and that the stamps that he had given to Mr. Sitton were stamps that he had purchased from other parties; that they were on cards, I believe. And he also stated that he was borrowing money from Mr. Sitton from time to time, and using these for that purpose.

Q. Did Mr. Rossi make any statement as to whether or not he had any conversation with Mr. LaSalle concerning the stamps?

A. He said he had.

Q. Do you remember what Mr. Rossi said about that at the time?

A. I can't recall it. I know that it was Mr. Rossi's testimony that he had had some transaction.

Q. By referring to the notes—have you them there where you can refer to them, Mr. Young?

A. Yes.

Q. Could you refer to the notes and see whether or not your memory is refreshed in any way upon that?

MR. GOLDSTEIN: I object to his referring to the notes, upon the ground and for the reason that he has already testified that the notes were not taken by him, but were taken by some other person, and for the further reason he has testified of his own general knowledge as to the substance of the transaction concerning the testimony of Mr. Rossi.

MR. VEATCH: I would like, if the court desires, to have Mr. Young explain a little bit further as to how those notes were kept, as to whether or not they were read to the jury and corrected.

Examination by the Court.

Q. You were present when those notes were taken?

A. Yes.

Q. You heard the testimony as the notes were taken?

A. It was impressed upon us by the attorney that the notes were a very valuable part of our business; and at the close of each testimony the notes were read aloud by the secretary, and they were approved by the jury in session.

Q. Well, do you know when those notes were taken that they correctly stated what was testified to by the witness?

A. I do. I am positive.

Q. And you heard those notes read?

A. Yes.

Q. And when the matter was fresh in your mind?

A. Yes.

Q. And you know that they stated the truth as to what happened?

A. As to what happened, yes.

COURT: I think the notes are competent.

MR. GOLDSTEIN: I still insist on the objection on the further ground that that is not the best evidence. The best evidence is the production of the secretary himself who made the notes. I also object for the further reason that those notes have not been in the possession of Mr. Young since the notes were transcribed or taken last May and were out of his hands..

COURT: The objection will be overruled.

MR. GOLDSTEIN: Exception.

* * *

Q. Mr. Young, do you remember what Mr. Rossi said, if anything, about the stamp transactions with Mr. Brenner, where those transactions took place?

A. They took place in Mr. Brenner's store.

Q. Did he state whether or not any one else was present at the time.

A. He states that Mr. LaSalle was present in Mr. Brenner's store.

Q. Did he state whether that was in the first or second transaction, or in both?

A. I do not know.

Upon cross-examination the witness was asked the following questions, the following answers were given, and the following proceedings had:

Q. Did you know anything about Mr. Rossi prior to the grand jury being called, having given a full statement of his transactions to Mr. Glover, of the secret service department, or to Mr. Walters, the assistant? Did you know that?

A. We did not.

Q. Did you know or were you told—

A. We were told that partial information had been given.

Q. Were you told that in reliance upon the information that Mr. Rossi was asked to give that he had been promised immunity from prosecution?

A. We were told that he was promised immunity by Mr. Glover.

Q. Did Mr. Glover appear before the grand jury?

A. He did.

Q. Was Mr. Glover asked concerning the promised immunity?

A. He was.

Q. Did he say he had given such immunity to Mr. Rossi?

A. I believe he stated to us that Mr. Rossi's name would be kept inviolate by the secret service department.

Q. How is that?

A. He stated to us that this party's name would not be given out by the secret service; that if we found it out, it would come from some other party; that they would keep their faith with Mr. Rossi.

Q. You didn't answer my question. Did Mr. Glover state that he had promised immunity to Mr. Rossi for the information he gave?

MR. VEATCH: Objected to.

COURT: That is not cross-examination.

MR. GOLDSTEIN: I want to show to your Honor at least I want to bring out—which I think I am entitled to, and for that reason I make an objection to your Honor's ruling for this reason, that Mr. Young at the outset stated that Mr. Veatch was very careful to warn Mr. Rossi about his rights, and that anything that he might say might be used against him. I want to show that the grand Jurors at that time knew also of this previous immunity that had been given to Mr. Rossi before he testified.

COURT: I don't think you can question on that.

MR. GOLDSTEIN: Take an exception to your Honor's ruling.

COURT: Very well. You may have your exception.

The witness further testified that the date of Mr. Rossi's appearance before the grand jury was about June 8 or 9, 1920.

Thereupon G. H. MARSH was called as a witness on behalf of the Government and, after being first duly sworn, testified as follows:

That he is the clerk of the United States District Court for the District of Oregon, and is in charge of the records of that court.

Thereupon the following questions were asked, the following answers given, and the following proceedings had:

Q. State whether or not, Mr. Marsh, you have in your possession a record of the case of the United States of America v. Fred Peterson and Russell Shawan.

A. I have.

MR. GOLDSTEIN: Just a moment. It is very apparent what the purpose of this is.

COURT: What is the purpose?

MR. VEATCH: Fred Peterson and Russel Shawan—

MR. GOLDSTEIN: If the court please, it is very apparent the purpose of this testimony—it is apparent to me and undoubtedly it is apparent to your Honor—is to prove a certain judgment against a defendant who is one of the six defendants in this case. It is objected to on the ground that it is incompetent for the reason that it has no connection whatsoever with this identical case; that the proof of any other offense, whether civil or criminal, is no proof of anything in this case; that at best it might be only used for the purpose of impeachment; that it tends to influence and prejudice the minds of the jurors to determine the case upon something foreign and apart from the issues in this case, and if it is introduced with no other purpose than proving intent—

COURT: Let me see that record.

MR. VEATCH: I might state to the court, in order to save time, I only intend to consider the first two counts.

MR. GOLDSTEIN: That is plenty.

COURT: Was there a judgment entered in this case?

MR. VEATCH: Yes, sir.

COURT: What on?

MR. VEATCH: Counts one and two.

COURT: On a plea of guilty.

MR. VEATCH: Yes, sir.

COURT: This is in the state court. No. The other count was dismissed?

MR. VEATCH: Yes.

COURT: The third count?

MR. GOLDSTEIN: That is the reason they don't want to introduce it, I guess, because it was dismissed.

MR. LONG: The fourth count was dismissed too, your Honor.

COURT: Well, now, what is the purpose of it?

MR. VEATCH: The purpose of introducing that is for the purpose of introducing an admission

on the part of the defendant Peterson in regard to these particular war savings stamps that are in question here at the present time.

COURT: Are these part of the same stamps?

MR. VEATCH: Part of the same stamps.

COURT: The record does not show it.

MR. VEATCH: The record shows that on a certain date at a certain time and place the defendant Peterson had a number of stamps on his possession, from which the number 50819 had been erased.

COURT: That shows on the record there?

MR. VEATCH: Yes.

COURT: What is the objection?

MR. GOLDSTEIN: The objection is, in the first place, and the main reason, that an admission made by a defendant prior—when was the judgment entered, Mr. Marsh, or rather the plea?

A. May 18, 1920.

MR. GOLDSTEIN: Admission made by the defendant of the character of that admission is highly prejudicial to the other defendants in the case. They are in no wise connected with this defendant so far as that particular judgment is concerned. And for the second reason that if it is admissible at all, it is merely for the purpose of impeaching the credibility of the defendant Peterson, and should not be used at the present time in

view of the presumption and the rights and privileges that a defendant has, as your Honor well knows, placing him in a position of doing something that the Constitution protects him from.

COURT: Let me see that, Mr. Clerk.

Court examines record.

MR. GOLDSTEIN: And I further object on the ground that there has yet been no proof of a conspiracy so as to make an admission of this character admissible, in any event; and for the further reason that if it is for the purpose of proving intent, intent should be carefully limited and restricted to that particular purpose.

COURT: This plea of guilty was in May, was it?

A. May 18th.

COURT: I will admit this against the defendant Peterson alone, and I will instruct this jury that this testimony is not to be taken in any way as against any of the other defendants in the case. And this is admitted for the purpose of showing intent on the part of Peterson, by showing a similar act; and it is admitted also as showing an admission so far as it goes on his part of dealing with these stamps.

MR. GOLDSTEIN: With the further suggestion, if your Honor please, and further upon the understanding that a conspiracy be first established before the admission could be considered, in any event.

COURT: Well, of course, that is the charge here, conspiracy. Unless the conspiracy is established there will be no conviction on any of these counts. I will admit on the ground I have stated.

MR. LONG: If the court please, I would like to save an exception to the ruling of the court on the part of Mr. Peterson—to allow that objection of Mr. Goldstein to go to Mr. Peterson.

COURT: Yes, you may have your exception.

Q. Mr. Marsh, will you read counts one and two of that indictment?

A. (Witness reads): United States of America vs. Fred Peterson and Russell Shawan. United States of America, District of Oregon, ss. The Grand Jurors of the United States of America for the District of Oregon, duly impaneled, sworn, and charged to inquire within and for said said district, upon their oaths and affirmations, do find, charge, allege and present: COUNT ONE. That Fred Peterson and Russell Shawan, the defendants above named, on, to-wit: the 18th day of March, 1920, at Portland, in the State and District of Oregon, and within the jurisdiction of this court, did then and there, at said time and place, wilfully, knowingly, unlawfully, and feloniously have and keep in their, the said defendant's possession, with the intent and purpose on the part of them, the said defendants, to pass, publish, enter and sell the same, certain altered obligations and securities of the United States, to-wit: 174 United States War Savings Certificate Stamps of the series of 1918, which said obligations and securities had theretofore been altered by having removed from the face thereof

the registry number thereof, to-wit: number 50819, and said defendants at said time and place, then and there knowing said obligations and securities to have been theretofore altered in the way and manner aforesaid; contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid upon their oaths and affirmations aforesaid, do further find, charge, allege and present: COUNT TWO. That Fred Peterson and Russell Shawan, the defendants above named, on, to-wit: the 18th day of March, 1920, at Portland, in the State and District of Oregon, and within the jurisdiction of this court, did then and there, at said time and place, wilfully, knowingly and feloniously, have and keep in their, the said defendants' possession, with the intent and purpose on the part of them, the said defendants, to pass, publish, enter and sell the same, certain altered obligations and securities of the United States, to-wit: 34 United States War Savings Certificate Stamps, on the series of 1918, which said obligations and securities had theretofore been altered by being removed from the certificate to which the same had been theretofore attached, the respective numbers of said certificates being to the grand jurors unknown, and said defendants at said time and place, then and there knowing said obligations and securities to have theretofore been altered in the way and manner aforesaid; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Q. Does your record show, Mr. Marsh, the plea to that indictment as to the defendant Peterson?

A. The plea?

Q. Yes.

A. Yes.

Q. What was it?

A. The first plea was a demurrer to the indictment; subsequently he pleaded not guilty, and on May 18th he withdrew that—

MR. LONG: Just a minute. If the court please, they should not be allowed to go on and say what this man did, how he subsequently did this. The record is the best evidence of the plea. The judgment is the only thing admissible here. As a matter of fact this indictment is not admissible under any theory of the case.

COURT: The plea of guilty was entered; I suppose that is all that is necessary.

A. On May 18th, the defendant Peterson pleaded guilty as charged in counts one and two of the indictment.

COURT: A judgment of guilty was entered upon that?

A. Judgment and sentence was entered upon that plea of guilty.

After the Government had rested its case, JOHN C. VEATCH was called as a witness by the defendant and, after being duly sworn, testified as follows:

That he was an assistant United States attorney for the district of Oregon; that William Glover was secret service operative in charge during the month of March, 1920; that this case was first brought into his office by Mr. Walters, Mr. Glover's assistant; that he was informed at that time by Mr. Walters that they had obtained certain information and it would be necessary for them to cover up their information; that their informant was a man by the name of Rossi; that there was no further discussion of the case until the time of the commissioner's hearing, which was some time in the month of March, 1920, about two days after the arrest of Peterson, which occurred on March 18, 1920.

The witness was thereupon asked the following questions, and the following answers were given:

MR. GOLDSTEIN: I will again repeat my question to you, Mr. Veatch, so there need be no misunderstanding.

Q. Did you or did you not know, in the month of May, 1920, at the time you had Mr. Rossi come up to Mr. Bryon's office that he had in the month of March, 1920, given certain information to Mr. Walters, and that Mr. Walters had promised him immunity?

A. I knew that Mr. Walters had said Mr. Rossi would have to be covered up.

Q. Answer yes or no.

A. Well, I would answer yes to that.

Thereupon JOSEPH WALTERS was called as a witness by the defendant and, after being duly sworn, testified as follows:

That he was connected with the United States secret service for two years as agent at Seattle and Portland; that as such agent he came to Portland in the spring of 1919 and was stationed there until September 1, 1920, when he resigned from the service; that in the month of March, 1920, Mr. Glover was in active charge of the office at Portland, and that the witness was working under him; that in the month of March, 1920, the witness made an investigation concerning certain war savings stamps that had been reported to him as being circulated in the city.

Whereupon the following questions were asked, and the following answers were given:

Q. How did you get to Mr. Rossi?

A. Well, while in the Government service I promised a certain man immunity, and while I am no longer in the service I feel that promise is good, when the Government promised that man immunity.

Q. Whom did you make that promise to, Mr. Walters?

A. Angelo Rossi.

Q. When and under what circumstances did you make that promise?

A. On the afternoon of March 17, 1920.

Q. Did you make that promise of immunity in the presence of any one?

A. In the presence of John M. Riley.

Q. And based upon that promise did you get certain information from Mr. Rossi?

A. It was through him that I was able to locate the man that blew the Scio job and was handling these stamps.

Witness further testified that it was not an unusual practice for agents of the secret service to grant immunity in cases where their evidence is necessary to cause the proper investigation to be made; that it had been done in the past and he presumed it had been done in counterfeiting cases time and time again; that about March 17, 1920, he told Rossi that in return for the information he obtained he would not expose his name, and the witness thereupon, and on the next day, informed his chief, Mr. Glover, that he had promised Rossi immunity for the information that he received:

Thereupon WILLIAM A. GLOVER was called as a witness on behalf of the defendant and, after being duly sworn, testified as follows:

That he was an operative in charge of the United States secret service from 15 to 20 years in different parts of the United States; that he was stationed at Portland, Oregon, for about 10 years; that it is the duty of the secret service division to protect the obligations of the United States, and it is the only department of the Government so delegated that authority. In the month of March, 1920, he was in charge of the United States secret service at Portland, Oregon, and that Joseph Walters was an assistant working under him at that time.

Thereupon the following questions were asked of said witness, and the following answers were given by him:

Q. Had you in the month of March been making any investigation concerning the distribution of war savings stamps in this locality?

A. Some time during the early part of the year we received circulars that there were a great many brokers throughout the country dealing in war savings stamps, and was directed to make an investigation of that kind. I turned this matter over to my assistant, Mr. Walters, and we started to work here. This matter was taken up with Mr. Veatch. A man by the name of Randolph, who was then conducting the American Brokerage Company here, we was endeavoring to trace as to how many stamps he had in his possession at any one time. And he was under investigation at the time this other matter arose.

Q. So then you were investigating Randolph at the time this other matter arose?

A. Yes, sir, and that matter was known to Mr. Veatch.

Q. That matter was known to Mr. Veatch before the other matter arose, that you were investigating Mr. Randolph?

A. Yes.

Q. Had you known Mr. Rossi or had any dealings with him prior to Mr. Walters coming to you?

A. I never saw or knew of a man by the name of Rossi, this particular Rossi, no sir.

Q. And when did the first information come to you that there was a man by the name of Rossi, and that he was connected with war savings stamps?

A. I think it was on the evening of the 17th of March.

Q. And how was that information communicated to you?

A. On the 16th of March I was sitting in my office in the postoffice building and received a telephone from Mr. Wigton in the postoffice department. Part of our duties is to notify banks and postoffice departments of anything pertaining to our particular line of business. And Mr. Wigton said that there was a matter came up there about some war savings stamps that he thought looked a little suspicious. Those things come into our office very frequently. I told him that I would send Mr. Walters up to see him, and left a note—Mr. Wal-

ters was out on the street—I left a note on his desk to see Mr. Wigton. That is all that I knew until the next day. That was the 17th. Mr. Walters reported that he had followed this information down, and there was a man by the name of Rossi implicated. My wife was lying at the point of death during this time, and I turned over the matter to Mr. Walters to handle, called in the assistance of Mr. Charles Welter, who was an old man and well posted in all lines of this business. And I instructed Agent Walters to go by the advice of Mr. Welter.

Q. Mr. Welter being the postoffice inspector?

A. Yes, sir; a man whom I have been associated with for a number of years; know him as a very capable, efficient man.

Q. Then did Mr. Walters ever communicate the fact to you that he had promised any protection or immunity to the informant?

A. Yes, sir.

Q. And when was that?

A. That was, I believe, that was either the night of the 17th or the day of the 18th. I am not clear, for the reason that I was at home under strained circumstances in connection with the sickness of my wife.

Q. Had you yourself personally promised any immunity to Mr. Rossi?

A. Absolutely not at that time.

Q. And this promise had been given to Mr. Rossi by Mr. Walters, and Mr. Walters communicated that fact to you?

A. That is the fact, sir.

Q. Did you confirm it or ratify it by any conversation you had with Mr. Rossi?

A. Some days later Mr. Rossi came in, I believe it was after the preliminary hearing of defendant Peterson. Mr. Rossi came in, and he says he wanted to see the chief. I had never seen him. I asked Mr. Walters what he wanted, and he said he wanted to see the chief.

COURT: Who is the chief?

A. He meant me. So I went into the other room to see him. And that is the first conversation and the first time that I ever saw the defendant Rossi.

Q. What did he say to you at that time?

A. He said that he had been double-crossed before, and he was a little bit afraid—that Mr. Walters not being in charge of the district, that he was a little bit afraid maybe he would be double-crossed, and he had heard that I was a square-shooter, and he wanted me to pass my word on whether or not he was to be taken care of and kept under cover. At that time I told Mr. Rossi that it was not the usual custom of the secret service division to do anything of that kind, but that as I understood that he was to give information and was giving information at that time that it will probably

have to go, but I told him that we ought to use and probably would use him at the hearing or at the trial. And he told me that that was a case of double-cross absolutely, and was a little bit sore. And I asked him plainly, I said, "Mr. Rossi, is it absolutely your understanding that you was to be kept covered in this transaction? Did you get that from my office?" And he says, 'Absolutely, chief. Mr. Walters told me that.' I said, "Mr. Rossi, I am in charge of this office. If my man said that, I will make good." That is when I promised him to keep him covered.

Q. You promised to keep faith with the word of your assistant?

A. Yes, sir.

Q. Did you thereafter communicate that fact in any way to Mr. Veatch or any one connected—

A. Yes, sir.

Q. When did you communicate it to Mr. Veatch?

A. I think the next morning I took this matter up with Mr. Veatch before. Before the hearing I came into Mr. Veatch's office with this information and we went over it fully and talked this matter over. I told him that it probably was not a very good thing, maybe Mr. Walters might have made a mistake under the circumstances, but we had to keep this man covered, because the secret service had passed its word. This is one of the first things we learn in our business, that once the secret service word is passed we have to make good. And

Mr. Veatch and I went fully over this matter, how to arrange to keep Mr. Rossi's name out of it. At that time Mr. Veatch asked me if I thought Mr. Rossi was guilty. I told him that probably the most of those fellows like that, probably he might be, but it didn't make any difference; that he was to give valuable information, and was to do that and would make good; and for that reason we would have to keep him covered. Mr. Veatch agreed with me as to some way how to do it. And he went into court before the commissioner's hearing with that end in view.

Q. Did Mr. Veatch protect the testimony without divulging the informant?

A. Yes, sir. We both, with the assistance of Mr. Welter, went over this matter right in the courtroom during the commissioner's hearing how to keep Rossi's name out of this transaction.

Q. What next transpired as to cause this change of investigation from your hands, where it properly belonged to Mr. Bryon's hands?

A. After the hearing of Peterson we was then trying to locate approximately probably \$40,000 of \$50,000 worth of loot that was somewhere in this vicinity at this time. And I was getting valuable information through my informant in regard to this. The secret service works in a proposition of that kind to keep as quiet as possible and not go to too many people while they are trying to discover the corpus delicti of a case, the loot. And it was while we were working underneath the cover to get this information that I received a telephone from Mr. Rossi. And he says, "What are you trying to

do to me? Are you double-crossing me, chief?" I says, 'What are you talking about?' "Well," he says, "I have been up to Bryon's office five or six times today." He says 'What are you trying to do to me?' "Well," I says, "I don't know anything about it. You had better come over to my office."

Q. When was that? What month?

A. That was during the month of—probably in the month of March—the latter part of March, shortly after the hearing. It might have been later than that. He came over to my office, and he told me that he had been up to Mr. Bryon's office. Mr. Bryon had asked him about this case, and that he told Mr. Bryon that I knew all about it.

MR. VEATCH: Just a minute. Are you testifying as to what Mr. Rossi told Mr. Bryon?

A. Testifying to what Mr. Rossi told me.

MR. VEATCH: This is a self-serving declaration. Mr. Rossi is in the courtroom. If he wants to testify to that he can.

MR. GOLDSTEIN: I think I am entitled to that, if the court please.

COURT: I think that is self-serving.

MR. GOLDSTEIN: I take exception to your Honor's ruling.

COURT: You may have your exception.

Q. When, if at any time, were you notified by Mr. Veatch that the secret service department was to lay off and let Bryon's office do it?

A. Mr. Rossi was in my office at this conversation.

Q. When was that?

A. That was in the latter part—well, I can't get the date, unless you get it in the statement, but it was evidently made—this conversation took place on the date that this statement as prepared in Agent Bryon's office took place.

Q. That is May 13, according to the testimony.

A. Then it must have been May 13.

Q. That is what I want to know—was it between March 17—

A. Between March 17 and up until this date.

Q. May 13.

A. Mr. Rossi was getting information for me.

Q. You were receiving information frequently from March 17 to May 13 from Mr. Rossi?

A. Yes; and we investigated a place or two where this loot was supposed to be from information that I had received.

Q. And the first intimation that you received that you were no longer desired was in an indirect way from Mr. Rossi?

A. It came through Mr. Rossi. While Mr. Rossi sat in my office Mr. Veatch called me, said, "Hello,

Bill." I says, 'Hello, John,' He says, "I will have to throw that friend of yours, Rossi, in the can." 'What for?' 'Well,' he says, 'He has been mixed up in these war savings stamps.' "Well," I said, "You knew that, John, didn't you, all the way through?" Well, he said that he thought he better go to jail. And this happened in the presence of Rossi. And I said to Mr. Veatch, I said, 'John, you better wait till I talk over this matter with you, and I will see you in the morning.' Made an appointment to see Mr. Veatch in the morning, which I did. And I went over the matter and told him as far as the question of guilt was concerned that was not one—two—three. That we were getting information at that time, and that he already had known of this matter before he went before the hearing.

Q. In the meantime, was this source of information being lost and destroyed by newspaper publication as to what Bill Bryon was doing and what Veatch was doing?

A. Mr. Veatch told me that he was going to use Bryon's office, and I told him that I washed my hands of it entirely. I instructed my boy to have nothing more to do, any more than to assist the United States attorney's office at any time he so desired, and he did. Whenever he desired anything from my office as far as getting war savings stamps brought back from the Treasury Department, which his department could not get, he got them.

Q. So you washed your hands of the case then?

A. Yes, sir.

Q. When was that?

A. That was on that date, May 13, the day that I received this information. Not that date, but the next day after I talked with Mr. Veatch. My appointment with Mr. Veatch must have been on May 14.

Q. That is when you found out that your word, the secret service agent, was not going to be kept?

A. Yes, sir. I had no more connection with the case whatsoever.

* * *

Q. Did you come to me and ask me to put you on the stand?

A. I did, sir, night before last.

Q. Why did you ask that?

A. When I saw—the reason for asking you to put me on the stand—I saw that Mr. Veatch was not going to put me on the stand so I could explain away some of this newspaper notoriety that has been filtering here for the last six months; so I came to you and requested you to give me a chance to get the truth before this court and my friends here.

Q. This was a personal request of me as a friend of yours?

A. Yes, absolutely.

COURT: Who is your friend?

A. Well, I have friends all over the coast, your Honor.

COURT: I thought you meant Rossi.

Thereupon at the close of Mr. Glover's testimony the defendant made the following motion, and the following proceedings were thereupon had and taken, to-wit:

MR. GOLDSTEIN: At this time, if the court please, in view of the testimony of Mr. Walters and of Mr. Glover, who, the testimony indicates, were then agents in charge of the secret service branch of the Government, and who were then and there acting and qualified to act as such, that they had secured certain information from Mr. Rossi upon certain inducements held out to him of hope of being shielded and protected from prosecution concerning his connection with the stamps, I move that any statements or admissions introduced in evidence, subsequent to that promise and subsequent to securing information through him, based upon that hope, be stricken out, on the ground that it is involuntary, and on the ground it was induced by hope on the part of Mr. Rossi, and not a voluntary statement made by him without the holding out of such hope.

COURT: This is an indictment upon a charge of conspiracy, And even if Rossi had given this information under inducement, yet the information would be pertinent for determining whether or not he and the other parties—alleged parties to this conspiracy were really and actually engaged in the conspiracy. So that, take it any way you like, the testimony of the admissions of Rossi would be pert-

inent in this case. As to how it would affect Rossi himself, the court will instruct the jury about that. I will overrule the motion.

Exception allowed.

BE IT FURTHER REMEMBERED, that during the course of the trial and on, to-wit, October 29, 1920, the following proceedings were had in open court:

MR. LONERGAN: If the court please, at this time I feel it my duty to call your Honor's attention to what appears in the Oregonian this morning in reference to the trial of this case. I don't know whether your Honor has read that article or not.

COURT: No, I have not.

MR. LONERGAN: It is an article that contains so many misstatements of fact and so many misstatements as to the evidence introduced here on this trial on yesterday that it could not have been written by one who was present at this trial, but must have been given to the reporter by some other source. I am making no accusations of any kind, but I think your Honor ought to be advised as to this because I do not know what the effect may be.

COURT: I will say to the jury, if any of you read that article that you will put it out of your mind and not carry it into this case. I will look at it this evening.

Thereupon after the close of the evidence in the case, the defendant made the following motion on behalf of the defendant:

Now, if the court please, in addition to the grounds of this motion for these three defendants jointly, I renew the motion for a directed verdict as to the defendant Rossi upon the following additional grounds:

1. That the only proof of any possible connection of the defendant Rossi with any possible conspiracy is based upon admissions and confessions made by him to an arresting officer of the United States and to one then in authority to hear and receive such admissions and confessions; that it is conceded that the arresting officer induced the making of such admissions and confessions by holding out to Rossi a promise of immunity from prosecution, which promise Rossi relied upon, and which promise had never subsequently been withdrawn. It therefore follows that the admissions and confessions made by Rossi were not free and voluntary, but were involuntarily made and induced by hope, and therefore should have been stricken out.

Whereupon the following proceedings were thereupon had:

COURT: The motions will all be overruled. And it is not necessary for me to undertake to restate the evidence, because that is a matter for the jury, and I don't care to say anything that might influence the jury.

MR. GOLDSTEIN: Exception, your Honor.

MR. BERNSTEIN: We will all be allowed an exception?

COURT: Yes, you will all be allowed your exceptions. Mr. Veatch, the court has about come

to the conclusion—I would like to hear from you about it—that by the testimony of Mr. Glover and Mr. Walters, which is practically uncontradicted by any other witness, it appears that immunity was extended to Rossi, and therefore that his statement made to Bryon and the parties there present, yourself among the rest, is not competent proof against Rossi, and it ought to be stricken out. I could not decide this question before this time, because I did not know what rebuttal testimony there would be offered by yourself as to the testimony of Glover and Walters.

MR. VEATCH: I would like to say this, your Honor, that whether or not Glover or Walters ever made any promise of immunity to Mr. Rossi, there is absolutely not one single bit of evidence in this case that was ever obtained from Mr. Rossi under any promise of immunity. If the court remembers, in the statement of Mr. Rossi, which was taken down by a stenographer, he was specifically told in the beginning that he did not have to say anything, or that he was not promised anything. There is no evidence in the case that was obtained through any promise to Mr. Rossi.

COURT: I have an idea he had a right to rely upon that promise, and very likely did rely upon that promise for immunity when he was called before Mr. Bryon and there caused to make a statement. The warning extended to him, of course, was proper and right, but I doubt whether that warning will deprive him of his right to depend upon the immunity that was offered him by a detective officer. There was some testimony, there was some information given by this defendant Rossi which led to the arrest of Peterson; and so far as

he is concerned, according to the understanding as testified to by Glover and by Walters, Rossi did give some information which led to the detection and the arrest of Peterson with these stamps on his person or in his room; so that Rossi, having carried out what Glover said was his part of the agreement, and having rendered that service which led to the arrest of the defendant Peterson, he has performed his part of the agreement, and Walters having extended him immunity, I think he is entitled to be relieved from the effect as against him of that testimony.

MR. VEATCH: That is only as to his admissions before Mr. Bryon.

COURT: Yes.

MR. VEATCH: How about the admissions before the grand jury?

COURT: I think that must go the same road.

MR. GOLDSTEIN: How about the admissions to Mr. Walters? How about the delivery of the stamps to Mr. Walters?

COURT: I think that is a question of fact—the delivery of the stamps to Walters.

MR. GOLDSTEIN: In any event, if the court please, your Honor has already ruled with respect to certain prejudicial matter that has been heard by the jury. In view of your Honor's ruling, I at this time move for a mistrial as to the defendant Rossi, for these grounds: Ordinarily it is a question for the court to determine the voluntary char-

acter of testimony and where it is likely to be prejudicial, where the voluntary character of the testimony is challenged, as I challenged it at the time it was sought to be introduced, the jury ought to have been removed, but your Honor permitted the testimony to go in upon Mr. Veatch's assurance that it would be connected up, upon Mr. Veatch's assurance that the promise of immunity would have no effect upon this testimony. In any event, there has been a certain prejudice done to the defendant Rossi that cannot be removed by your Honor's merely advising the jury to disregard it. The effect has been had; the danger of the defendant's constitutional safeguards has been caused, and I think it is unfair, so far as the defendant is concerned, with respect to his constitutional safeguards—I am not discussing the matter of evidence here or the sufficiency of lack of sufficiency—I am discussing certain constitutional safeguards that are placed around every defendant, no matter how guilty of an offense he may be. And that protection is taken away from him when the jury is permitted to hear a long-drawn-out confession of connection between Rossi and yeggmen, of Johnny the Bull and Johnny that. There is that atmosphere of association and connection with criminals that should not have been permitted here, and if your Honor had been previously advised of the immunity it would not have been admitted here. The damage has been done, and he ought to be given a new trial with that testimony eliminated and then see what a jury might do upon the other state of facts that the Government could present. So I feel at this time that I should make a motion, and I have made it.

COURT: The counsel can see very clearly why the court could not act before. In the first place,

it was not apparent to the court how long this conspiracy continued, and the court could not say as a matter of law, until the evidence was all in, about when it closed. That as to the statements of the co-defendants—as to the admission of Rossi that was made under the promise of immunity, the court could not tell what rebuttal testimony would come as against the statement of Glover and Walters; hence the court could not say as a matter of law, until the Government had a right and a chance to rebut that testimony, if it had it in its power. That was the condition and position of the court, and the court could not act until it could act intelligently. I am now acting upon that. I will say furthermore as to the testimony of Walters, the fact that he took those stamps from the possession of Rossi,—I think that ought to go with the other testimony, because Rossi had been promised immunity, and all that testimony which would affect him coming in that way should be stricken out.

The court will not grant a mistrial.

You may have your exception.

IT IS HEREBY CERTIFIED that there was no evidence introduced in this case tending to show that any of the stamps which are embraced in this indictment were stolen by the defendant Rossi; that the only evidence tending to show theft on the part of any of the defendants was that introduced to the effect that there was found in the possession of co-defendant, Peterson, a number of stamps that were alleged to have been recently stolen from the Scio bank.

That thereafter the court reconsidered his ruling previously announced with respect to the statement of Rossi before the grand jury, and made the following ruling:

COURT: I want to say to counsel that since reconsidering the matter of the statement I made yesterday about striking out certain testimony as it related to Rossi, the court will adhere to its former statement that his statement to Bryon will be stricken out; but the statement that he made to the grand jury will remain. I have come to this conclusion deliberately, after examining the proffered instructions and consulting the law. I will give my reason why the grand jury statement should stand. Rossi deliberately asked to go before the grand jury and his appearance there was entirely voluntary on his part, knowing that immunity had been promised him; and he was there warned that any statement he made might be used against him; and having gone there of his own accord entirely voluntarily, without being called by the grand jury or anybody else, I think that statement ought to stand. Hence I want to advise you that before you go into the argument, so there will be no misunderstanding.

MR. GOLDSTEIN: May I have an execution, your Honor?

COURT: You may have your exception.

It further appeared that after the close of all of the evidence in the case and after the arguments of counsel, the court charged the jury as follows:

INSTRUCTIONS OF COURT TO JURY.

Now, gentlemen of the jury, you have heard the testimony in this case and the arguments of counsel pro and con, and it now becomes the duty of the court to instruct you touching the law of the case, so that you will take the instructions of the court and be thereby guided, and be enabled the more readily to ascertain what the facts are under the evidence. The defendants Peterson, Rossi, Brenner, LaSalle, Smith and Stein have all been indicted under one indictment for the offense of conspiracy, which is a violation of Section 37 of the Criminal Code.

The indictment, I will instruct you at the outset, is itself not evidence against the defendants. It is a mere accusatory document, which has been prepared by the grand jury, and which puts the defendant upon trial as to his guilt or innocence. But the document itself is not to be taken or construed as any evidence whatsoever against the defendants in this case. The defendants have been tried here under that document, and you will pay attention only to the evidence here in determining whether or not the defendants or any of them are guilty under the charge made against them.

The defendants have entered pleas of not guilty to this indictment. Those pleas put in issue every allegation of every material matter in the indictment, or they put in issue every element which goes to make up the offenses with which they are

charged. That puts upon the Government the burden of establishing to your satisfaction, beyond a reasonable doubt, every material allegation of the indictment and every element which goes to make up the offense with which the defendants are charged; and it is incumbent, therefore, upon the Government to establish these facts to your satisfaction beyond a reasonable doubt.

The defendants under the law and under the Constitution of this Government are presumed to be innocent until they are proven guilty beyond a reasonable doubt. That presumption is one of substance, and it abides with the defendants throughout the trial, and until the evidence adduced has been sufficient to convince you to a moral certainty and beyond a reasonable doubt of their guilt. The presumption of innocence is an assumption of proof created by law in favor of one accused, and is evidentiary in effect, whereby his innocence is established until sufficient evidence is introduced to overcome the proof which the law has created.

I will also advise you that you are trying the defendants upon the indictment that has been preferred against them, and for the offense thereby charged. You are not trying them upon any other offense. And I will call your attention also to the fact, which has been alluded to by counsel, that the newspapers have had something to say about this case in giving the evidence that has been adduced here, and in comments thereon. But I advise

you in the beginning that you are not to take any note of what the newspapers have to say about this case, or, if you should have read any comment that the newspapers have made regarding the case or regarding the testimony, you should lay that to one side and confine your attention wholly and absolutely to the testimony that has been adduced here, and determine what your verdict shall be upon that testimony alone.

Now, in order that you may understand what the issues are, it is necessary that the court shall allude to the indictment more specifically.

Now, these defendants are charged with combining together and agreeing together between and among themselves, and with divers other persons, to commit the acts made offenses and crimes by the laws of the United States, to-wit, Sections 148 and 151 and 154 of the Penal Code of the United States, and to defraud the United States, that is to say, that the defendants did, on the day named conspire, combine, confederate and agree together between and among themselves to devise and execute and did devise and execute a plot, plan and scheme to falsely make and alter certain obligations and securities of the United States, namely, United States War Savings Certificates and United States War Savings Certificate Stamps, and to pass, publish, utter and sell, said altered obligations, and to have and keep the same in their possession, and to conceal the same with intent and purpose on their part to defraud the United States and individual per-

sons, whose names are to the grand jury unknown, and to buy, receive, sell, exchange, transfer and deliver said falsely made and altered stamps with intent and purpose on their part that the securities passed, published and used as true and genuine, and to defraud the United States by presenting for redemption and causing the United States to redeem and purchase said falsely made and altered obligations of the United States; that it was a part and portion of said combination and agreement that said plot and scheme to commit the acts made offenses and crimes by said Sections 148, 151 and 154 of the United States Penal Code, and to defraud the United States as aforesaid, was to be carried out, effected and put into operation by the following methods and plan: that the defendant Peterson and others were to steal and carry away from the owners and custodians thereof certain United States war savings certificates and United States war savings certificate stamps; that thereupon and thereafter said Peterson and others were to remove from said United States war savings certificates certain United States war savings certificate stamps thereto attached, and to remove and erase from the face of said war savings certificate stamps so removed from said United States war savings certificates certain registration and identification numbers thereon; that thereupon and thereafter Peterson and others were to pass, sell, transfer and deliver said stamps so removed and altered to the defendant Rossi; that said defendant Rossi was to buy, receive, keep in his possession and conceal the

stamps so removed and thereupon and thereafter was to procure blank United States war savings certificates and attach thereto said United States war savings certificate stamps so removed and altered, and pass, sell, transfer and deliver said United States war savings certificates so procured, together with other United States war savings certificate stamps so removed and so altered as aforesaid to the defendants Rossi, LaSalle, Brenner, Smith and Stein, and divers other persons; that said defendants LaSalle, Brenner, Smith and Stein and others were to buy, receive and have and keep in their possession and conceal said United States stamps so passed and transferred, and were thereupon and thereafter to sell, transfer and deliver said altered stamps to various and divers persons whose names are unknown; that it was a part and parcel of said unlawful conspiracy that said United States war savings certificates and United States war savings certificate stamps should be procured, altered, passed, published, uttered, exchanged and concealed in the way and manner aforesaid, with the intent and purpose on the part of them to defraud the United States and individuals whose names are unknown to the grand jury, with the intent and purpose that said United States war savings certificates and United States war savings certificate stamps so altered be passed, published and used as true and genuine.

Then it is alleged that the said conspiracy was entered into on the first day of March, 1920, and that it continued in operation until about the 20th

day of March, 1920, the exact date being to the grand jurors unknown; and that during the meantime the conspirators continued in full operation under the agreement.

Now, then, this is the charging part of the indictment as to the conspiracy.

It is further charged that in pursuance and in furtherance of the unlawful conspiracy, the defendant Peterson on the 3rd day of March, 1920, at Scio, in the State and District of Oregon, did then and there steal the said stamps from the bank of Scio, and then the stamps are described with considerable detail. It is not necessary for me to read that to you. This is one of the acts alleged in the indictment that were done for the purpose of carrying the conspiracy into effect; and it is further alleged that for the purpose of carrying the conspiracy into effect, Peterson, with intent and purpose on his part to defraud the United States and individual persons, did on or about the 4th day of March remove from said United States war savings certificates the said war savings certificate stamps thereto attached.

And as a third act which was done in pursuance of the conspiracy, it is alleged that Rossi did, on or about the 5th day of March, have and keep in his possession these altered stamps, knowing them to be altered.

And fourth and fifth it is alleged that the defendant Rossi did, on or about the 8th day of March, deliver to the defendant Dave Stein 63 of the stamps.

And sixth it is alleged that the defendant Stein did on the 8th day of March have and keep in his possession and conceal 63 of the stamps.

And seventh that on or about the 9th day of March, 1920, the defendant Stein did sell and deliver to Philip Tobin 63 of the stamps.

And eighth, that the defendant Rossi did, on or about the 10th day of March, sell, transfer and deliver to Smith 50 of the stamps.

Ninth, that the defendant Smith did, on or about the 10th day of March, 1920, have and keep in his possession and conceal 50 of the war savings stamps.

Tenth, that on or about the 10th day of March, 1920, Smith did pass, sell and deliver to Julius Hems 50 of the stamps.

Eleventh, that on or about the 10th day of March, 1920, the defendant Rossi did pass, sell, transfer and deliver to William Brenner 214 of the stamps.

Twelfth, that on or about the 10th day of March, 1920, Brenner did buy and receive from Rossi and have and keep in his possession and conceal 214 of the stamps.

Thirteenth, that on or about the 11th day of March, 1920, Brenner did deliver to the defendant LaSalle 66 of those stamps.

Fourteenth, that on the 11th day of March, 1920, the defendant LaSalle did pass, sell and transfer and deliver to George Randolph 66 of the stamps.

Fifteenth, that on or about the 17th day of March, 1920, the defendant Brenner did pass, sell, transfer and deliver to Robert LaSalle 148 of the stamps.

Sixteenth, that LaSalle did, on the 17th day of March, 1920, buy and receive from Brenner and have and keep in his possession and conceal 148 of the stamps.

Seventeenth, that on or about the 17th day of March, 1920, LaSalle did pass, transfer and deliver to George Randolph 148 of the stamps.

Eighteenth, that on or about the 17th day of March, 1920, Rossi did procure certain blank United States war savings certificates, to-wit, war savings certificates of the series of 1918, describing them, and attach to said certificates 20 United States war savings certificate stamps so removed and altered.

These allegations of acts that the defendants have done for the purpose of carrying into effect the conspiracy, which is alleged to have been entered into, are called and termed overt acts.

A conspiracy is a combination or confederation, or an agreeing together of two or more persons to do an unlawful act, or a lawful act in an unlawful manner. It has for one of its elements a corrupt purpose, that is, to obtain some undue advantage, or to perpetrate a fraud. The unlawful combination or agreement may be brought about by express understanding between the parties to accomplish the object designed, but not necessarily so. It may be consummated by tacit consent, whereby there has been a concurrence of mind and action of and between the parties, showing forth a common design or aim to accomplish a common unlawful object or purpose. And it may be evidenced, and commonly is, by a concert or harmony of declaration and action, or of either, indicative of the carrying out and effectuation of the common unlawful purpose or design. It is not essential that all the parties to the conspiracy act concurrently in matter of time, but the plot may be of a nature to be accomplished by a series of transactions and within some length of time, and the different parties may have different things to perform, and at different times; but in the end, if it is obvious that the parties acted in concert, one doing one part, another another, and so on, all in harmony one with another, until a common unlawful purpose has been consummated, it must be considered that they conspired to effectuate the common unlawful object or purpose. Nor is it essential that the conspirators shall all assent to the common plot or scheme at one and the same time. Others may connect themselves

therewith after its conception, if, with knowledge thereof, and of its purposes, they assent to the project, or by concert of action lend aid and assistance in effectuating the common object.

Mere knowledge or passive cognizance of a conspiracy, without co-operation or agreement to co-operate, is not enough to constitute one a party to a conspiracy. There must be active co-operation and intentional participation in the transaction, with a view of a furtherance of the common design and purpose.

Under the statute, the conspiracy must have for its object the commission of an offense against the United States, or to defraud the United States.

The charge here, as you have been advised, is that the defendants conspired both to commit an offense, or rather offenses against the United States, and to defraud the United States.

The conspiracy is the gist of the offense. That means the combining and confederating together to effect the purpose and object thereof. But, under the statute, the offense is not complete until one or more of the conspirators has done some act or acts to effect the object of the conspiracy. These are called overt acts. So that it takes both—the conspiring, agreeing, and confederating together for accomplishing a corrupt purpose, and the doing of some act or acts by one or more of the conspirators to effect such purpose or object, to constitute the

completed offense. The offense is deemed to be complete and to have been committed, when these things have been done, and it is not essential that the entire plot or scheme devised shall have been fully and wholly accomplished.

It is the law, and I so further instruct you, that the declarations and acts of one or more of the conspirators made or done while the common purpose of the conspiracy is being effectuated, that is, while the parties are actively engaged in carrying the plot or scheme devised by the conspirators into effect, to the end that they may accomplish the common unlawful purpose, are to be deemed the declarations and acts of all. But it is only to this extent that the declarations or acts of one or more will bind or effect all of them. The declarations or acts of one or more of the parties, made or done after the conspiracy has terminated, and after the conspirators have ceased to co-operate actively, or to act together for the effectuation of the common unlawful purpose, design, or object of the conspiracy, do not bind or affect any other party or parties to the original scheme or plot, or any party or parties to the conspiracy.

Section 148, Penal Code, makes it an offense against the United States for any one, with intent to defraud, to falsely make, forge, counterfeit or alter any obligation or other security of the United States.

Section 151 makes it a like offense for any one, with intent to defraud, to pass, utter, publish, or sell, or to keep in possession, or conceal with like intent any falsely made, counterfeited, or altered obligation or other security of the United States; and

Section 154, a like offense for any one to buy, sell, transfer, receive, or deliver any false, forged, counterfeited, or altered obligation or other security of the United States, with intent that the same shall be passed, published or used as true and genuine.

All these have the element of the intent to defraud: The first, by falsely making or altering a Government obligation; the second by passing or selling, or having or keeping in possession, or concealing any such falsely made or altered obligation; and the third, by selling, transferring, receiving or delivering any such, with intent that the same shall be used as true and genuine.

The defendants are charged, as I have shown, with conspiring to commit all these offenses, and to defraud the United States and individuals whose names were unknown to the grand jury. If the defendants, or any one or two or more of them, so conspired to commit any one or more of such offenses, or to defraud the United States, and any one of them did one or more of the acts alleged in the indictment as having been done to carry the object of the conspiracy into effect, the defendants thus conspiring would be amenable to the charge.

Now, while it is alleged that it was part of the plot that Peterson should steal the war savings certificates, with stamps attached, from their owners, and that he was to remove the stamps from the certificates and to erase the registration numbers from the face of the stamps, and thus to alter the war savings certificates and the stamps attached, and then to sell, transfer, and deliver them to Rossi, and that Rossi was to receive and keep in his possession such altered war savings certificate stamps, and thereafter to sell, transfer, and deliver such altered stamps to the defendants Robert LaSalle, William Brenner, W. E. Smith and Dave Stein, and others who were to buy, receive and keep them in their possession, and thereafter to sell and deliver them to others, all with the intent and purpose of defrauding the United States and individuals whose names are unknown, and with the intent to pass such altered stamps as true and genuine, I instruct you that Peterson is not being prosecuted here for having stolen the war savings certificates or war savings certificate stamps, nor for having counterfeited or altered them, nor for having them in his possession, or selling or passing them as true and genuine, and cannot be convicted of those offenses under the present indictment.

And so of the defendant Rossi and the other defendants; they cannot be convicted of having received or kept in their possession falsely made or altered obligations of the United States, or for having uttered or passed them as true and genuine, because they are not so charged.

The only offense with which the defendants are charged under the indictment, is that of conspiracy. That is the only cause on trial here, and you should confine your inquiry to that cause alone; and unless the defendants, or two or more of them, are guilty of that particular offense, they must be acquitted. You are not to understand, however, that you are not to take into consideration what the defendants, or any of them, have done, according as the evidence may tend to show, conducing to their inculcation. You should examine very carefully all the competent evidence offered with respect to the declarations and acts and demeanor of all the defendants, as it relates to these war savings certificates and war savings certificate stamps, in order to ascertain, if possible, how they came into the possession of the defendants, or any of them, if they ever had such possession; as to whether they were falsely made or altered by them, or any of them, if at all; as to whether they were sold or transferred, or received by them, or any of them; and as to whether they, or any of them, were uttered or passed as true and genuine; all for the purpose of determining whether the defendants, or any two or more of them, conspired together, as alleged, to commit these offenses, or any of them, or to defraud the United States. All these matters, as alleged,—and you will be further advised thereof by a perusal of the indictment, which you will have with you in the jury room—are to be inquired into by you for ascertaining whether or not the defendants, or any two or more of them, are guilty or not

guilty of the charge of conspiracy as alleged. I have said you should examine all the competent evidence relative to the inquiry just submitted. Later I will advise you with respect to certain evidence that should not be considered by you, and certain other evidence that you should apply in a special manner.

Under the Act of Congress of September 24, 1917, the Secretary of the Treasury was authorized to issue war savings certificates in such form or forms, and subject to such terms and conditions, as he might prescribe. He was also authorized, under such regulations and terms and conditions as he might prescribe, to issue or cause to be issued stamps to evidence payments for or on account of such certificates. Under proper regulations of the Secretary of the Treasury, it was prescribed that payments for or on account of such war savings certificates must be evidenced by United States war saving certificate stamps which were to be affixed thereto. And the regulations further prescribed that a United States war savings certificate should be an obligation of the United States when, and only when, one or more United States war savings certificate stamps should be affixed thereto; and that the name of the owner of each war savings certificate must be written upon such certificate at the time of the issue thereof. The regulations also provide for registration of the war savings certificates at any postoffice of the first, second or third class, and that unless registered, the United States

will not be liable if payment in respect of such certificates be made to a person not the rightful owner thereof.

By analysis of the act and the regulations of the Secretary of the Treasury, it will be seen that two kinds of paper or documents were authorized to be issued, namely, war savings certificates and war savings certificate stamps. The certificates are the larger squares of paper or pasteboard that have been shown to you here, and the stamps are the smaller pieces of paper, containing the printed legends thereon, which are pasted upon the certificate or pasteboard.

It appears that the stamps are sold separately from the certificates, and the testimony tends to show that the certificates may be obtained by application to certain Government agencies for them. But a stamp when so issued, separate from the certificate, is not an obligation of the Government any more than a postage stamp, and will be redeemed only in a certain way. That way is provided by the regulation just alluded to, and is by affixing it to a war savings certificate and writing and indorsing the name of the owner on the certificate. When so made up and perfected, the certificate, with a stamp or stamps attached, becomes an obligation of the Government, and not until then. Such a certificate is then susceptible of registration. The manner in which a registration is had has been described to you. It is by stamping the number of the postoffice

with the serial number of the stamp upon the face of such stamp registered. Being so registered, the Government is obligated to pay the owner the value of the stamps at the postoffice where registered. These certificates, with a stamp or stamps attached, are obligations of the United States within the meaning of sections 148, 151 and 154 of the Penal Code.

I further instruct you that a removal of the stamps from the certificate, if done with intent to defraud, would be tantamount to an alteration of a Government obligation, and would, in effect, render it a falsely made certificate or obligation within the purview of section 148 of the Penal Code, and would constitute a violation thereof. So if one should erase the registration number from the face, of the stamp, or the owner's name from the certificate, with the intent to defraud, he would be guilty of an alteration of such certificate, and would commit the offense denounced by section 148. It would not be an alteration within the meaning of this section to erase the serial number on the certificate, because that would not be a material alteration. I have reference to the serial number which is on the certificate, not to the number which is stamped upon the stamp itself when the registration is had. So you will keep those two numbers in your mind, and not misconstrue the instruction of the court.

Again, any one who shall sell, receive or have in his possession any such altered or falsely made cer-

tificates, knowing them to have been so altered with intent to defraud, would be amenable for a violation of section 151 of the Penal Code. And so, if any one shall pass or utter any of such forged or falsely made certificates or stamps, knowing them to have been so altered with intent that they should be passed or used as true and genuine, he would violate the denunciation of section 154 of the Penal Code. So that, if it was the object of the alleged conspiracy to violate any one of these penal statutes in the manner I have indicated to you, the participants would be amenable to the conspiracy statute; and so also would they be amenable if it was their object to defraud the United States.

I further advise you that any false making or alteration of any obligation of the United States, with intent to defraud, would be a fraud upon the United States. So would the passing or having in possession any of such altered paper, with intent to defraud, knowing it to have been altered, or the passing or altering of the same, with intent that the same shall be passed and used as genuine, be a fraud on the United States.

You will apply these rules in the present case and determine whether, under the evidence, the defendants, or any two or more of them, did in fact enter into a conspiracy to violate any of these statutes, or to commit any of the offenses denounced thereby, or to defraud the United States, and if you find that they did so you will ascertain whether any one of the conspirators committed any of the acts alleged in the indictment, which it is alleged were

committed for the purpose of carrying into effect the object of the conspiracy. If so, there would be a violation of the conspiracy statute which I have explained to you; otherwise, not.

Some question has been made as to the time when active operations ceased under the alleged conspiracy. The time stated in the indictment is somewhat elastic, namely, on or about March 20, 1920, the exact date being to the grand jurors unknown. It is important that you ascertain the exact date in order to determine how the alleged conspirators are to be effected by the declarations or acts of some one or more of them. As I have advised you, the declarations and acts of one or more of the conspirators, while engaged in carrying the object of the conspiracy into effect, are to be deemed the declarations or acts of all, and are binding upon all in their evidentiary effect. But not so after the conspiracy has come to an end. Several of the alleged conspirators have taken the stand and testified in their own behalf, namely Brenner, La-Salle, Stein and Smith. In their narratives of their dealings with war savings certificates and war savings certificate stamps, they have given evidence of their relations with other co-defendants. If such relations existed while the alleged conspiracy was still in operation, the testimony of such relations would be pertinent evidence against all the parties engaged in the alleged conspiracy, and should be so regarded by you; otherwise, not.

I will now call your attention to certain evidence that has been allowed to go to you, some of which I

will strike from the record as incompetent, and some of which it is proper to limit in its application.

First, with respect to the statement of Rossi to W. R. Bryon and others in the month of May, 1920, at Mr. Bryon's office, relative to his part in dealing with certain war savings certificates and war savings certificate stamps. These statements of Rossi,—you remember what they were and how they came to be made—the court now strikes from the case as incompetent as evidence, and I instruct you to disregard them wholly as evidence affecting either Rossi or any of the other defendants, for the reason that it appears from the uncontradicted testimony of Glover and Walters, who were Government detectives at the time—you will remember what it was—that Walters promised Rossi immunity from disclosure of his name in connection with the affair, and likewise from prosecution, on condition and in consideration that Rossi would give information leading to the detection of persons implicated in robbing the Scio bank. Rossi, it is said by these witnesses, gave such information as led to Peterson's arrest and the discovery of certain war savings certificates and stamps in his room. Having been promised this immunity, the reasonable inference would be that Rossi was influenced to make the statement through hope of escaping the disclosure of his connection, whatever it was, if any, with the stamp transactions. This although he was warned that whatever statement he might make

would be used against him, for he was called to make the statement by Government detectives after he had rendered the supposed service to other Government detectives which led to the detection and arrest of Peterson and the discovery of stamps in Peterson's room.

I instruct you, however, that the statement made by Rossi in giving evidence (before the grand jury) is not to be so disregarded by you. There is evidence tending to show that Rossi appeared before the grand jury voluntarily, and of his own accord, and, although warned that whatever statement he might make would be used in evidence against him, he, notwithstanding, gave such evidence without insisting upon his immunity. The evidence, therefore, of Mr. Young, the foreman of the grand jury, was competent and pertinent to prove the admissions of Rossi with reference to the stamp transactions, and you are to regard these admissions for whatever tendency they may have, if any, to show Rossi's connection with the alleged conspiracy. But I instruct you that these admissions, whatever they were, are not to be regarded as in any way affecting Peterson or any other of the defendants. This for the reason that such admissions, whatever they were, were made long after the alleged conspiracy had come to an end, and the parties, whoever they were, if any, had ceased co-operation for effecting the alleged common purpose. So you will lay these supposed admissions out of the case as in any way affecting any of the defendants except the defend-

ant Rossi. And so also Brenner's statements before the grand jury must be regarded in the same light.

It will be remembered also that Brenner, LaSalle and Stein were also called before Bryon, and each made a statement to him and others, regarding what transactions they had in dealing with war savings stamps. The statements of these defendants were made in May; that being concededly subsequent to the time when it is supposed that operations in pursuance of the alleged conspiracy had ceased. I therefore instruct you, and you are so to regard it, that the statement of Brenner, in whatever light it may be regarded, whether as admissions on his part or a statement of facts pertaining to transactions with war savings stamps, is not to be considered as affecting any of the other defendants in the case; that is to say, neither Peterson, Brenner, Stein or Smith. But as to LaSalle, his statement is competent and pertinent evidence to show, along with all the other testimony in the case, his relation, whatever it was, if any, with the alleged conspiracy. And so also of the statement of Stein made to Bryon, at or about the same time, I have but to repeat what I have previously said as to Brenner and LaSalle, it must not be regarded as affecting any of the other defendants, but such statement is pertinent and competent as affect Stein himself, and you are to consider it along with the other testimony in the case, in determining his alleged relations with the alleged conspiracy.

Now, the Government introduced in evidence a certain judgment of conviction on a plea of guilty against the defendant Peterson. This judgment is not to be regarded by you as evidence of the defendant's guilt in this case. It was only offered for the purpose of showing, as evidence bearing upon the question of intent on the part of Peterson, that a judgment was recovered in a case similar to this, and the judgment was offered for the purpose of being considered as evidence only as bearing upon the intent, or with what intent the defendant Peterson may have done anything that might implicate him in this case, whatever that was, as you will ascertain from the testimony.

So as to the testimony of Sitton, he was examined touching matters, not for the purpose of evidence in this case against the parties, but merely for the purpose, as I have explained in reference to this judgment, of determining with what intent Peterson may have acted, or any of the other defendants may have acted, in doing what they have been shown to have done, as you will ascertain, with reference to these war savings stamps.

Now, the elements of the offense of conspiracy are: First, it must be the act of two or more persons confederating and conspiring together. One person cannot commit the offense. Second, the purpose of the conspiracy must be to commit an offense against the United States or to defraud the United States. Third, one or more of the conspirators

must, after the conspiracy has been formed and during its existence, have done some act to effect the object of the conspiracy. And further, as I have said to you, the purpose of the conspiracy must be attended by a corrupt purpose; that is to say, in this case, with intent to violate sections 148, 151 and 154, or one or more of them, or with intent to defraud. These elements must be established beyond a reasonable doubt in order to convict. It is not essential that the alleged conspirators shall have accomplished their purpose. As applied here, it is not essential that the defendants, or any of them, shall have actually committed the offenses denounced by sections 148, 151 and 154 of the Criminal Code, heretofore defined to you, or shall have actually defrauded the United States; it is sufficient that it be shown, beyond a reasonable doubt, that the parties charged, or two or more of them, have entered into corrupt understanding, or agreement, or conspiracy to do these things, or any of them, and that one or more of the conspirators has, while the alleged conspiracy was in operation, done some act or acts to effectuate the purpose of the conspiracy.

Your inquiry will obviously center about the transactions among the parties with respect to the war savings certificate stamps that are in controversy here. You will inquire whether the stamps were stolen, and if so, whether by either of the defendants. And in this relation I may say to you that the possession of recently stolen property affords a strong inference that the property was

stolen by the person having it in his possession. You will inquire further whether the stamps have been altered by removing the stamps from certificates with the owner's name written thereon, or by erasure of the postoffice or registration number from the face of the stamp. And if you so find, you will then ascertain whether the alteration was made by one or more of the defendants while the alleged conspiracy was in operation, and if so, with what intent and purpose it was done. You will also inquire touching the persons into whose hands the altered stamps, if altered, passed; and if they passed, by sale or otherwise, into the hands of any of these defendants, you will ascertain the purpose of making the sales, and also of the persons, if they be defendants, in receiving and possessing themselves of the stamps, and whether with intent that they should be passed and used as true and genuine. If the motives of the defendants in handling and dealing with these stamps, whoever they were, if any, were corrupt, with the design or purpose either of transgressing the sections of the Penal Code heretofore designated, or any of them, or of defrauding the United States, knowing the stamps to have been altered, if you find that they were so altered, then such of the defendants as so dealt with such altered stamps, if two or more of them were implicated in a conspiracy to accomplish the purpose, would be amenable under the conspiracy statute under which the defendants are indicted.

The intent with which the acts were done in furtherance of the conspiracy, whatever they were, if

any, is an essential ingredient of the offense. This must be gathered from the declarations, acts and demeanor of the parties among themselves, and with respect to the subject matter of their transactions, and it involves the inquiry whether the defendants, whoever they were, if any, who dealt with these stamps, if altered, had knowledge that they were so altered or defaced, for without such knowledge they could not be charged with acting corruptly. So that, in order to ascertain with what intent, motive or purpose the parties dealt with these stamps, whoever they were, you will examine all the testimony that has been adduced here, both pron and con, as to the controversy, observing the limitations of which I have advised you touching the application of certain testimony to which I have especially called your attention. Thus in your inquiry you will trace the stamps, ascertain where they came from, what was done with them, and who dealt with them, and with what motives; and in doing this, you will take into account, along with the rest, the physical condition of the stamps.

Furthermore, the defendants must have had knowledge of the alteration or forgery of these obligations. Assuming that you find that these instruments were obligations of the United States and assuming that they had been in fact altered, these counterfeiting statutes being highly penal and being given life only where there is that intent, make it necessary that the proof show, either by circumstantial or direct evidence, the intent to defraud, making forging, or altering, and the

knowledge of such falseness, before the passing is unlawful. While it is true that the fact of the knowledge may be proven is a variety of ways, there should always be some evidence tending to show knowledge beyond that which results from mere proof that the forged or altered obligations were passed. This rule results from the nature of the transaction, because, as is very well known, forgeries or alterations may be so skillfully done that one may, naturally and innocently, as is some times the case, receive and pass such obligations in the whirl of business. In such a case intent and guilty knowledge within the meaning of these statutes would be absent, and if you should so find your verdict should be for the defendants not having such knowledge.

Certain witnesses have been called in the course of the trial to testify as to their own participation in this criminal transaction. While accomplices are competent witnesses, it is the duty of the court to caution you that their testimony must always be received with caution, and weighed and scrutinized with care. The jury should not rely upon it unsupported unless it produces in their minds the conviction of its truth.

While an offense may be established by circumstantial evidence, yet such evidence to warrant a conviction in a criminal case must be of such a character as to exclude every reasonable hypothesis but that of guilt of the offense imputed to the defendant. Or, in other words, the facts proved must all

be consistent with and point to his guilt only, and inconsistent with his innocence. The hypothesis of guilt should flow from the evidence proved and be consistent with that of guilt. If the evidence cannot be reconciled either with the theory of innocence or with guilt, the law requires that the defendant be given the benefit of the doubt, and that the theory of innocence be adopted.

Certain testimony has been offered here touching the reputation of some of the defendants and as to their good character. You should consider such evidence for whatever you may think it worth, together with all the other evidence in the case, in arriving at your verdict, and if you believe that his reputation prior to the finding of the indictment in this case for being a law-abiding citizen was good, you should weigh it along with the other evidence in the case and give it such effect and weight as you think it is entitled to, and if from all the evidence, including the evidence as to his reputation, you have a reasonable doubt concerning his guilt, you should acquit him.

Now, gentlemen of the jury, a reasonable doubt is not every captious or whimsical doubt that might be raised by a person to get rid of the question before him. It is a thing of substance, and it is such a doubt as would cause reasonable men to hesitate in their inquiry or as to whether they should act in the more important affairs of life. It is such a doubt, as applied to this case, as would cause you to hesitate and not act after an examination of all the

testimony, in this case with reference to the question of guilt or innocence. If you believe, however, from all the testimony, to a moral certainty, that the defendants have committed the offenses with which they are charged, then of course that obviates any cause for a reasonable doubt in the case; that is to say, in all of your investigations, before you can find the defendant guilty, you must be convinced to a moral certainty of his guilt, or you must be convinced beyond a reasonable doubt of his guilt.

Evidence of the general reputation of the accused for good character may of itself create a reasonable doubt of guilt, although without it no such doubt would exist. That evidence should be kept in view by you in all your deliberations, and is to be considered by you with all the other facts and circumstances in the case in determining the final issue of the guilt or innocence of the accused. Therefore, if you find that a reasonable doubt exists in your minds of the defendant's guilt because of the proof of such good character along with all the other facts and circumstances in the case, then it is your duty to find a verdict for the defendant.

Now, gentlemen of the jury, you are the sole judges of the effect of the testimony. The court gives you the law, and you take that from the court and apply it implicitly, but when you come to the testimony, that is your sole function, to determine what the effect of it is. A witness is presumed to speak the truth, but that presumption may

be overcome by the manner in which he testifies and by the character of his testimony, or by testimony affecting his character or his motives, or by contradictory evidence. A person found to be false in one particular is to be distrusted in all. And you may also observe the witness while upon the witness stand, and say whether or not he seems to be candid and open, or whether or not he seems to be withholding something; and from his demeanor you may determine as to his credibility and as to what extent he should be believed. And in this way, after determining the credibility of the witnesses, you may then say what your verdict should be upon the testimony in the case.

The defendants Peterson and Rossi have not taken the stand in their own defense. The fact, I will instruct you, that they did not so take the stand is not to be construed as in any way against them. The statute has provided that a person has a right to take the stand or not, and if he does not take the stand, the mere fact of his not taking the stand, shall not be construed as evidence against him.

Whatever the court may have said to you, gentlemen of the jury, or whatever the court may have said to counsel during the trial, in your hearing, from which you might infer that the court has an opinion in this case one way or the other, or upon any part of the testimony, you should disregard, because the sole function of determining what the

facts prove is within your hands and not the court's; and therefore I give you that particular instruction.

I will say further to you that certain of the defendants have taken the stand in their own behalf, and you should consider their testimony and the credibility thereof under the same rules and regulations as you would consider the testimony or credibility of any other witness in the case.

To which charge the defendant, at the time and in the presence and hearing of the jury, objected and excepted to so much of the court's said instruction given as follows:

MR. GOLDSTEIN: If the court please, on behalf of the defendant Rossi, and on his behalf only, I take exception to your Honor's instruction to the jury to consider the testimony of Rossi made before the grand jury. And instead I would ask that your Honor would instruct the jury to disregard anything that Mr. Rossi may have said before the grand jury, and failing in that instruction I ask your Honor to give this instruction: "If you believe that the statement or confession"——

COURT: You need not read that. You may hand it up. And you may take an exception to the court's not giving it.

MR. GOLDSTEIN: I want to read it in the record later, after the jury have gone.

COURT: You may hand that to the reporter.

MR. GOLDSTEIN: In addition, I also take exception to your Honor's instruction that a removal of a stamp from a certificate that has not been registered is a material alteration, bringing it within the purview of the three counterfeiting statutes.

COURT: You may have your exception.

* * *

MR. GOLDSTEIN: I also call your Honor's attention to an instruction that I think might be misunderstood. Your Honor stated at the outset that these defendants are not on trial for the substantive offenses themselves; that is, they are not on trial for receiving altered obligations or having in possession altered obligations, or passing altered obligations, but they are charged with conspiring to have these things and to do those things; but that they may consider the admissions and the demeanor of the defendants. I think that is a little confusing, in that it is my contention that the proof of a conspiracy cannot be predicated upon admissions of the defendants themselves as to any part in their transactions; that the proof of conspiracy must be established beyond an admission.

COURT: Well, that will be overruled.

* * *

MR. GOLDSTEIN: I also take exception, if your Honor please, on behalf of all the defendants, to so much of the instruction that your Honor has given as are inconsistent and contradictory to the requested instructions and supplementary requested instructions that I have handed to your Honor.

I also ask an exception to your Honor's refusal to give the requested instructions.

Exceptions allowed.

Whereupon, within the time limited by the rule of the court so to do, the defendant, in writing, requested the court to give the jury the following instructions:

I also call your Honor's attention to an instruction that I think might be misunderstood. Your Honor stated at the outset that these defendants are not on trial for the substantive offenses themselves. That is, that they are not on trial for receiving altered obligations or having in possession altered obligations, or passing altered obligations, but they are charged with conspiring to have these things and to do those things; but that they may consider the admissions and the demeanor of the defendants. I think that is a little confusing, in that it is my contention that the proof of a conspiracy cannot be predicated upon admissions of the defendants themselves as to any part in their transaction; that the proof of conspiracy must be established beyond an admission.

* * *

If you believe that the confession made by Mr. Rossi to Mr. Young, foreman of the grand jury, was traceable to the hope inspired by the assurances made by Mr. Walters and Mr. Glover in the first instance, and that Mr. Rossi at the time was relying

upon such assurances when he made the confession to Mr. Young, then such confession is inadmissible and you should disregard it. It is not material whether Mr. Young knew that Mr. Glover had inspired a hope in the mind of Mr. Rossi provided there was a causal connection between the hope aroused and the confession. The fact that the confession was not made to the officer arousing that hope is immaterial. When an improper influence has been exercised it becomes the duty of the Government to show that it has been removed before this subsequent confession can be held admissible.

* * *

The basis of the jurisdiction of the United States over these offenses is that it involves an obligation or other security of the United States which is alleged to have been altered, forged, or counterfeited. If the instrument alleged to have been so altered, forged, or counterfeited is not an obligation of the United States, then there has been no violation of these counterfeiting statutes. Before you can find, therefore, that the defendants conspired to violate any of these statutes you must first of all determine to your satisfaction and beyond a reasonable doubt that the scheme alleged to have been devised by the defendants was one that had in contemplation the dealing in altered, forged, or counterfeited obligations of the United States. If the conspiracy did not have any such object in contemplation, then the scheme could not possibly have resulted in a violation of any of these statutes. In

other words, if the defendants conspired to commit some offense that is not denounced by these specific statutes, or any of them, to-wit, sections 148, 151 and 154, then you cannot find any of these defendants guilty on this charge, and your verdict would under those circumstances have to be that of not guilty, so far as this particular charge is concerned.

* * *

When and under what circumstances can the instruments alleged in the indictment to have been the subject of the alteration be considered as the obligations of the United States? I instruct you that a United States war savings stamp becomes an obligation of the United States only when it has been affixed to a United States war savings certificate and the name of the owner has been written upon that certificate. It is only when such a certificate is so made up and completed that it becomes an obligation of the United States within the meaning of the counterfeiting statutes herein involved.

* * *

If you should find, therefore, after a review of all the testimony in this case, that the prosecution has not convinced you beyond a reasonable doubt that the object of the conspiracy was to alter or forge such obligations of the United States, as I have defined them, then it would be your duty to return a verdict of not guilty as to such defendants you find had not so conspired. In other words, if

certain of the defendants entered into a conspiracy, assuming that there was a conspiracy, merely to buy, receive, possess, or sell loose war savings stamps, then they could not be said to be guilty of this offense, as such war savings stamps, considered separately, are not obligations of the United States.

* * *

It is further charged in the indictment that the defendants conspired to forge and alter obligations of the United States by removing a certain serial or identification number from the face of the stamps. Upon that point I instruct you that it is not an alteration or forgery of a United States war savings certificate, assuming that it was fully and completely made up so as to constitute an obligation of the United States, to erase or remove the serial number therefrom, as such serial number is not a material element of the obligation. The obligation is just as potent in the hands of the holder without as with the serial number. It is only when the certificate has been duly registered that the removal of the registration number therefrom would constitute a forgery. It is not charged in the indictment, however, that the conspiracy included the scheme of altering stamps or certificates that had been registered. That being the case I instruct you that under this indictment there has been no proof that obligations of the United States had been altered by the removal of the registration number therefrom.

* * *

I also instruct you that it is unfair and improper to consider anything you may have heard or read concerning this case outside this court room to influence you in arriving at your verdict. Your verdict should depend upon the sworn testimony that you have heard here, and upon that testimony only. It appears that a number of articles were written concerning this case which might possibly have a tendency to detract from the testimony as here given under oath. If you have heard or read anything about this case outside this courtroom it is your duty under your oath to disregard it entirely. It is not only unfair to the defendants that you should entertain any prejudice against them for something that you may have heard or read outside this courtroom, but it is likewise a contempt of court to publish such matters of a pending trial. I therefore remind you of your duty under your oath and appeal to your conscience to consider only the evidence given in this case, and none other. If, therefore, you honestly feel that the evidence as presented in this case is insufficient to convince you beyond a reasonable doubt of the guilt of the defendants, then it is your duty to return a verdict of not guilty, notwithstanding the fact that if you considered the statements in the newspapers your decision would have been otherwise. I also instruct you that your verdict must be based upon the guilt or innocence of these defendants on this charge, and none other, no matter what your opinion may be concerning their guilt upon any other charge or offense. If, there-

fore, you honestly feel that the evidence as given in this case is insufficient to convince you beyond a reasonable doubt of the guilt of the defendants in conspiring to violate the counterfeiting statutes, then it is your duty to return a verdict of not guilty, notwithstanding you might believe them guilty of some other offenses.

Except as the said instructions may have been incorporated in the general charge, the court refused to give said instructions to the jury and did not give the same, and to this refusal the defendant asked and was allowed an exception by the court as to each and every one of said requested instructions so refused to be given.

Thereupon the jury retired, and upon returing into court announced that it desired further instructions, whereupon the court further charged the jury as follows:

Now, gentlemen of the jury, the first question that you propound is the following: Does a stamp simply by being removed from a certificate, said certificate not being registered, become an altered stamp?

To that I answer, that if the certificate has a stamp attached and the name of the party written upon the certificate, and the stamp thereafter has been removed with intent to defraud, then the

defendant would be guilty whether the certificate or stamp was registered or not.

* * *

COURT: The next question you ask is this: If defendants thought at the time that they were handling stolen stamps, but did not know they were altered registered stamps, could we find them guilty on this indictment?

My answer to that is that if the defendants were handling these stamps knowing them to be stolen, and they handled them with intent to defraud the United States, then they would be within the purport of this indictment.

Thereupon the defendant in the presence and hearing of the jury objected and excepted to each of said additional instructions and the following proceedings were thereupon had in connection therewith:

MR. GOLDSTEIN: If the court please, on behalf of the defendants I represent I take exception to your Honor's instruction holding that the mere removal of a stamp from a certificate that had not been registered with the Government—the stamp itself being the unit of value, the certificates being meaningless unless it together had been registered so as to constitute it an obligation of the United States—would be an alteration within the meaning of the counterfeiting statutes. In other words, the contention is that Congress alone can make it a crime to remove stamps from certificates, and that this merely being a regulation of the Treasury De-

partment unsupported by any congressional action, it could not diminish or impair the value of the stamp, which is itself the unit of value. Furthermore, I would ask that your Honor instruct the jury with respect to that particular point.

COURT: That is the same question you raised last evening.

MR. GOLDSTEIN: It is, but with this particular condition: Now, in view of what your Honor instructed the jury, that unless the jury can find that the defendants in the handling of the loose stamps did at that time know that the stamps had at one time or another been a part of a completed obligation, that is, that the stamps at one time or another had been fully attached to a certificate and that at one time or another, the certificate had endorsed thereon the name of the proper owner, and did it with the intent to defraud, the mere handling of loose stamps in itself would not be sufficient.

COURT: I have instructed the jury fully about that, and I don't think it necessary to repeat it.

MR. GOLDSTEIN: I will ask that the court instruct the jury that it is not within the meaning of the indictment that stamps that had been stolen, if the defendants knew that they had been stolen, come within the condemnation of the indictment; that they must in addition to that know that the stamps had at one time been part of the altered obligation, and that they did it with the intent of circulating altered obligations, and with the intent of defrauding the Government, and with the intent of carrying out the purposes of the conspiracy. I will ask that instruction, and except to the refusal to give it.

COURT: You may have your exception.

It is hereby certified that the instructions heretofore set out herein as having been given by the court to the jury are all of the instructions given by the court to the jury .

And thereupon the jury rendered a verdict of guilty as charged in the indictment.

And thereafter the defendant, within the time allowed so to do, moved the court for a new trial of said cause, which said motion for a new trial, omitting the title thereto, is as follows:

Comes now the defendant in the above entitled case, by Barnett H. Goldstein, his attorney, and moves the court to set aside the verdict of the jury rendered herein and to grant a new trial, for the following reasons and upon the following grounds:

I.

That the court erred in overruling the defendant's demurrer to the indictment.

II.

That the record fails to show that the defendant has pleaded to this indictment as required by law and therefore no issue being had, there was nothing for the jury to try.

III.

That the defendant was prejudiced at the outset of his trial and during the course of his trial by articles appearing in newspapers then and there published and generally circulated in the City of Portland, Oregon, where said cause was being tried, which said articles purporting to discuss and comment upon this case were of such a nature as to arouse public prejudice against this defendant and were thereby calculated to prejudice the jury against him; that true and correct copies of such newspaper articles are hereto attached and made a part of the affidavit of Barnett H. Goldstein, hereto annexed and made a part hereof.

IV.

That the defendant was prejudiced by remarks of the court made during the course of the trial, as follows:

(a) During the examination of Julius HERNs, a witness for the Government, when objection was interposed to the admissibility of statements made subsequent to the termination of the conspiracy, the court made the following remarks:

“As to the objection that there has been no conspiracy proven here, you do not care to force the court to recount the testimony about that. I will overrule the objection.”

(b) During the examination of Julius Hems, a witness for the Government, when questioned as to the manner of eliciting information from him by government officers concerning which he testified that before making any statements he was told by John Price, connected with the department of justice, that he had better make a clean breast of it or go to jail (308), the court at the conclusion of his testimony asked the following questions:

COURT: Have you told the truth about that?

A. Yes, sir.

COURT: And nothing else?

A. Nothing else.

COURT: I think that is enough.

(c) During the examination of William Glover, a witness for the defendant and a former United States secret service operative, when questioned by the attorney for the defendant, testified as follows:

Q. Did you come to me and ask me to put you on the stand?

A. I did, sir, night before last.

Q. Why did you ask that?

A. When I saw—the reason for asking you to put me on the stand—I saw that Mr. Veatch was

not going to put me on the stand so I could explain away some of this newspaper notoriety that has been filtering here for the last six months; so I came to you and requested you to give me a chance to get the truth before this court and my friends here.

Q. This was a personal request of me as a friend of yours?

A. Yes, absolutely.

Whereupon the court intervened as follows:

COURT: Who is your friend?

A. Well, I have friends all over the coast, your Honor.

COURT: I thought you meant Rossi.

(d) During the examination of William Glover, a witness for the defendant and a former United States secret service operative, when cross-examined by the Assistant United States Attorney, he testified as follows:

A. This is the way the secret service operates, which I testified to yesterday—if a man comes into your office that is a crook or has been, and he says that a man so and so is, he believes,—is going into counterfeiting, and has asked him to go into counterfeiting, we very oftentimes hire him as an informant, with the distinct understanding that he is to get what information he can, but under no circumstances is he to manufacture any money or violate the statute, because he would be just as liable as the men that made the money themselves.

Whereupon the court intervened as follows:

COURT: In other words, you make a stool-pigeon out of him?

A. Yes, sir.

COURT: Did you attempt to do that with Rossi?

A. Well, that was part of the information, your Honor, that he was to furnish, that Mr. Walters made a condition as to keeping him under cover.

COURT: Was Rossi to act as stool-pigeon in order to pick up information for you?

A. That is practically the matter of the fact, your Honor.

(e) During the examination of William Glover, a witness for the defendant and a former United States secret service operative, the court questioned him as follows:

Q. I am asking you whether or not Rossi told you that he had sold or delivered any of these stamps to other parties?

A. No, sir.

Q. He left the impression with you that he was perfectly innocent himself?

A. Yes, sir. He simply mentioned the stamps that he had—the Swede Peterson stamps, said that he didn't—he told me that he didn't know that they were crooked.

Q. So that was not telling you the whole story?

A. Well, I imagine not from what later developed, your Honor. No question about that.

Q. That is all.

V.

That the court erred in the admission of the following evidence to which exception was duly made by the defendant:

(a) In permitting Miss Daisy Buckner to testify as to the registry of war savings certificate stamps on the ground that there was no charge in the indictment that the conspiracy contemplated the possession or sale of stamps that had been registered.

(b) In permitting William Bryon to testify as to the admission made by the defendant upon the ground that such statements had been induced by the promise of immunity theretofore granted to said defendant.

(c) In permitting William Bryon to testify orally as to admissions made by the defendant, which admissions had theretofore been reduced to writing and his written transcript was in the possession or under the control of the witness, on the ground that the written transcript was the best evidence.

(d) In permitting William Hyde to testify as to the condition of certain stamps that were in the

possession of Mr. Randolph, upon the ground that no proof had been offered tending to show those stamps were the identical stamps, or in anywise involved in the specific stamp transactions in the indictment.

(e) In permitting P.A. Young to testify as to admissions made by the defendant from notes that were not taken by him, on the ground that the best evidence was the testimony of the man who made the notes.

(f) In permitting T. M. Word to testify from a certain report he made without permitting counsel for the defendant to examine such report, upon the ground that the defendant was entitled to know and cross-examine him as to the basis for making such report.

(g) In permitting George H. Marsh to testify in the Government in chief case as to a former conviction of one of the defendants named Peterson, on the ground that such evidence was proof of another crime and thereby tended to prejudice all defendants jointly indicted and tried with Peterson.

(h) In permitting J. M. Riley to testify and through him to introduce certain stamps that were handed to him by the United States attorney in an effort to connect such stamps with those Mr. Randolph had received from one of the defendants and which, in turn, he testified had been sent by him to a Mr. McCann in San Francisco, on the ground that

there had been no evidence offered to connect the stamps that Mr. McCann had with those that subsequently came into the possession of the United States attorney's office.

(i) In permitting John Veatch to make statements not responsive to the questions propounded to him.

VI.

That the court erred in excluding the following evidence offered on behalf of the defendant, to which exception was duly taken:

(a) In refusing P. A. Young permission to state that Mr. Glover had testified before a grand jury that he had promised immunity to Rossi for the information he gave.

(b) In refusing W. A. Glover permission to state what the defendant told him concerning a conversation had with Mr. Bryon regarding the matter of immunity.

VII.

That the court erred in denying the motion of the defendant to strike out all testimony of the Government witnesses as to admissions made to them by the defendants subsequent to the promise of immunity theretofore accorded to him by Mr. Glover and Mr. Walters, secret service operatives, in charge of this investigation.

VIII.

That at the close of all the evidence in the case and after the court had ruled that the testimony of William Bryon should be stricken out on the ground that the admissions made by the defendant had been induced by the promise of immunity theretofore given to him, the court erred in failing to give a mistrial on the ground of the highly prejudicial testimony of Mr. Bryon already before the jury.

IX.

That the court erred in holding that the admissions of the defendant made before the grand jury were not induced or encouraged by the promise of immunity theretofore granted him.

X.

That the court erred in refusing to direct a verdict of not guilty at the close of the evidence.

XI.

That the court erred in instructing the jury as follows:

(a) In giving the following instruction:

The only offense with which the defendants are charged under the indictment is that of conspiracy. That is the only cause on trial here, and you should confine your inquiry to that

cause alone, and unless the defendants, or two or more of them, are guilty of that particular offense, they must be acquitted.

You are not to understand, however, that you are not to take into consideration what the defendants, or any of them, have done, according as the evidence may tend to show, conducing to their incuplation. You should examine very carefully all the competent evidence offered with respect to the declarations and acts and demeanor of all the defendants, as it relates to these war savings certificates and war savings certificate stamps, in order to ascertain, if possible, how they came into the possession of the defendants, or any of them, if they ever had such possession; as to whether they were falsely made or altered by them, or any of them, if at all; as to whether they were sold or transferred, or received by them, or any of them; and as to whether they, or any of them, were uttered or passed as true and genuine; all for the purpose of determining whether the defendants, or any two or more of them, conspired together, as alleged, to commit these offenses, or any of them, or to defraud the United States.

and in not explaining such instruction as requested by the defendant:

MR. GOLDSTEIN: I also call your Honor's attention to an instruction that I think might be misunderstood. Your Honor stated at the out-

set that these defendants are not on trial for the substantive offenses themselves; that is, they are not on trial for receiving altered obligations or having in possession altered obligations, or passing altered obligations, but they are charged with conspiring to have these things and to do those things; but that they may consider the admissions and the demeanor of the defendants. I think that is a little confusing, in that it is my contention that the proof of a conspiracy cannot be predicated upon admissions of the defendants themselves as to any part in their transaction; that the proof of conspiracy must be established beyond an admission.

(b) In giving the following instruction:

I further instruct you that a removal of the stamps from the certificate, if done with intent to defraud, would be tantamount to an alteration of a Government obligation, and would, in effect, render it a falsely made certificate or obligation within the purview of section 148 of the Penal Code, and would constitute a violation thereof.

(c) In giving the following instruction on the ground that there was no charge in the indictment that any of these stamps had been registered:

So if one should erase the registration number from the face of the stamp, or the owner's name from the certificate, with the intent to defraud, he would be guilty of an alteration of such certificate, and would commit the offense denounced by section 148.

(d) In giving the following instruction:

I instruct you, however, that the statement made by Rossi in giving evidence (before the grand jury) is not to be so disregarded by you. There is evidence tending to show that Rossi appeared before the grand jury voluntarily, and of his own accord, and, although warned that whatever statement he might make would be used in evidence against him, he, notwithstanding, gave such evidence without insisting upon his immunity. The evidence, therefore, of Mr. Young, the foreman of the grand jury, was competent and pertinent to prove the admissions of Rossi with reference to the stamp transaction, and you are to regard these admissions for whatever tendency they may have, if any, to show Rossi's connection with the alleged conspiracy.

(e) In giving the following instruction, on the ground that there was no evidence in the case that any of these stamps were stolen by any of the defendants:

You will inquire whether the stamps were stolen, and if so, whether by either of the defendants. And in this relation I may say to you that the possession of recently stolen property affords a strong inference that the property was stolen by the person having it in his possession.

(f) In giving the following instruction:

Now, gentlemen of the jury, the first question that you propound is the following: Does a stamp simply by being removed from a certificate, said certificate not being registered, become an altered stamp?

To that answer, that if the certificate has a stamp attached and the name of the party written upon the certificate, and the stamp thereafter has been removed with intent to defraud, then the defendant would be guilty whether the certificate or stamp was registered or not.

(g) In giving the following instruction, on the ground that there was no evidence in this case that any of these stamps were stolen by any of the defendants and no charge in the indictment that the defendants conspired to steal altered stamps, or have stolen altered stamps in their possession, knowing them to be stolen:

The next question you ask is this: If defendants thought at the time that they were handling stolen stamps, but did not know they were altered registered stamps, could we find them guilty on this indictment?

My answer to that is, that if the defendants were handling these stamps knowing them to be stolen, and they handled them with intent to defraud the United States, then they would be within the purport of this indictment.

XII.

That the court erred in failing and refusing to give the instructions requested by the defendant.

XIII.

That the verdict is contrary to the law of the case.

XIV.

That the verdict is not supported by any evidence in the case.

(Signed) BARNETT H. GOLDSTEIN,
Attorney for the Defendant.

STATE OF OREGON,)
County of Multnomah. }ss.

I, Barnett H. Goldstein, attorney for the above named defendant, do hereby certify that in my opinion the above motion is well founded in law.

(Signed) BARNETT H. GOLDSTEIN,
Attorney for the Defendant.

AFFIDAVIT.

STATE OF OREGON, }
County of Multnomah. }ss.

I. Barnett H. Goldstein, being first duly sworn, depose and say that I am a practicing attorney in the State of Oregon, residing and maintaining an office at Portland, Oregon; that I am the attorney for the above named defendant and was his attorney prior to and throughout his trial herein; that in preparing for trial and in the course of said trial, my attention was called to articles appearing in newspapers being published in the City of Portland relative to this defendant and his case, and I thereupon read such articles and do hereby depose that the documents hereto attached are true and correct copies of articles appearing in the Portland News, The Morning Oregonian and the Evening Telegram, said articles appearing on the times and on the dates stated.

That the article marked "Exhibit A" appeared in the Portland News a few days prior to October 26, 1920, the date when the trial herein began; that the article marked "Exhibit B" appeared in The Morning Oregonian on October 26, 1920, the morning of said trial; that the article marked "Exhibit C" appeared in the Evening Telegram on October 26, 1920, the day of said trial; that the article marked "Exhibit D" appeared in the Portland News on or about October 28, 1920, and during the course of said trial; that the article marked "Exhibit E" appeared in the Evening Telegram on or about October 28, 1920, and during the course of said trial; that the article marked "Exhibit F" appeared in the Evening Telegram on or about October 28, 1920, and during the course of said trial; that the article

marked "Exhibit G" appeared in the Portland News on or about October 29, 1920, and during the course of said trial; that the article marked "Exhibit H" appeared in The Morning Oregonian on or about November 9, 1920, and during the course of said trial.

That the said aforementioned publications, to-wit: The Morning Oregonian, Portland News, and the Evening Telegram are each newspapers published daily and in general circulation throughout the said City of Portland, Oregon, where the trial of this defendant was then and there being held.

(Signed) Barnett H. Goldstein.

Subscribed and sworn to before me this——day
of January, 1921.

.....
Notary Public for Oregon.
My commission expires.....

EXHIBIT A.

From News Item Appearing in Portland News.

Implication of the United States secret service in the illegal sale of war savings stamps obtained by the robbery of a number of country banks is expected when the trial of six men charged with altering and disposing of the stamps begins in Federal Court Wednesday.

The stamps, together with some liberty bonds, were stolen from banks in Oregon and Washington last winter. The total value of the loot was in the neighborhood of \$35,000.

The bank robbers disposed of the Government paper at less than one-fifth of its face value by transferring it to "fences," who, in turn, sold it to others. One of the men who thus became involved in the alleged conspiracy is City Detective Bob LaSalle.

Detective Admits Part in Affair.

LaSalle admits selling several hundred dollars worth of the stamps, but he says he had no knowledge of the robberies and it is expected that his attorneys will set up the claim that secret service agents told LaSalle the stamps could be legally sold.

Dave Stein, a north end pawnbroker; William Bremmer, a clothing merchant, and Angelo Rossi, another north end secondhand dealer, are facing trial on the charge of attempting to defraud by the alteration and sale of war savings stamps. W. E. Smith, a former employee of Rossi, is also one of the alleged conspirators, as is Fred Peterson, the man who is suspected of having done the actual safe cracking.

EXHIBIT B.

**From News Item Appearing in the Oregonian
October 26, 1920.**

The trial of six Portland men, including former detective on the city police force, for alleged trafficking in registered war savings stamps, part of the loot taken from the Scio, Or., State bank when it was robbed on March 3 last, will be started in the United States district court here tomorrow. Interest in the trial has been increased by rumors that other prominent persons in Portland may be connected with the operations of an alleged ring dealing in war savings stamps which are said to have been altered.

The six defendants are Bob LaSalle, ex-detective on the city police force; Fred Peterson, alleged robber, who has served three terms in penitentiaries; Dave Stein, local pawnbroker; William Bremner, owner of a clothing store; Angelo H. Rossi, pawnbroker and alleged to be a fence for thieves, and W. E. Smith, a watchmaker, who once worked for Rossi.

Stamps Registered at Scio.

The tale of the robbery of the Scio bank of \$15,000 worth of war savings stamps as well as liberty bonds, money and other valuables, is one of clever operatives, for the guilt of the actual crime has never been definitely placed. The bank purchased the stamps from the postoffice in Scio and took the precaution to have them registered, the Scio number being 50819, which was printed across the face of each stamp. The robbery occurred on March 3, and just a week later Fred Peterson was

caught in Portland with a quantity of war savings stamps on him, some of which, according to federal operatives, clearly showed traces of alterations by the use of some acid, the odor of which was easily noticeable and yet clung to those stamps held as evidence by the United States attorney in his vaults yesterday, after more than seven months.

Peterson's activities led to Rossi, who had long been watched as a supposed receiver of stolen goods, said detectives, and later another lead showed that Rossi was supposed to have sent a quantity of the stamps to San Francisco. The stamps were placed on the market at bargain prices, though they were worth their face value in all postoffices, and the ring saw an opportunity to make big profits, stated the complaint. Brenner bought and sold to LaSalle at a profit, and LaSalle was said to have sold to George N. Randolph.

Poor Specimens Reported.

It was stated that in the Randolph lot some poor specimens were found, some that were partly useable, and he asked LaSalle for his money back. LaSalle then came back on Brenner and Brenner on Rossi, who could not make good. This was said to have been the chain of events that set off the mine, for the partners fell out and the federal officers came in and were able to get some of them, who were angered, to talk enough to trace the operations of the gang. Rossi was said to have also sold stamps to W. E. Smith, who was said to have resold to Julius Hern.

Dave Stein was said to have made a sale to Philip Tobin, a tailor, who worked for him, and Tobin is one of the men who was reported to have had the bravado to redeem the stamps from the Government after the postoffice department already had paid for them once.

EXHIBIT C.

News Item Appearing in the Telegram.

FORMER CITY DETECTIVE ONE OF DEFENDANTS; ALLEGED ROBBER TO BE BROUGHT FROM JAIL TO TESTIFY.

Six men, one of them a former detective on the Portland police force, another now serving time in the county jail for robbery, went on trial this afternoon before Federal Judge Wolverton on the charge of attempting to defraud the Government by the sale of altered war savings stamps.

The stamps involved, officials say, are believed to have been included in loot taken from the Scio, Or., State bank.

May Involve Others.

The six defendants are: Bob LaSalle, ex-detective; Fred Robertson (Swede Whitey), alleged robber, who will be brought from his cell in the county jail to testify; Dave Stein, local pawnbroker; William Brenner, owner of a clothing store; Angelo H. Rossi, jeweler and pawnbroker, and W. E. Smith, a watchmaker who once worked for Rossi.

Special interest is attached to the case in view of the fact that other Portland business men are said to be involved in the operations of the alleged conspirators in disposing of the stamps.

EXHIBIT D.

From News Item Appearing in the Portland News.

SECRET SERVICE HEAD MAY BE INVOLVED.

During the progress of the trial Thursday William Glover, former head of the U. S. secret service here, held frequent whispered conferences with Barnett H. Goldstein, one of the six attorneys for the defendants.

It was charged by Assistant U. S. Attorney Veatch that Goldstein is secretly representing Glover in this trial, it being intimated by Veatch that Glover himself may be on trial at some time in the future.

EXHIBIT E.

From News Item Appearing in the Telegram.

William Glover, former secret service operative in charge of the Portland office, was not called as a witness by the Government because he had been "running around talking to attorneys for the defense," according to his testimony as brought out by John Veatch, prosecuting attorney, in cross-examination of the Government's case against six

Portland men charged with conspiracy in dealing in altered war savings stamps.

Yesterday Glover testified he asked his friend, Barnett H. Goldstein, attorney for the defense, to put him on the stand in order that he might clear up recent newspaper notoriety before his friends.

"What friends do you refer to?" asked Judge Wolverton.

"Your Honor, I have many friends up and down the coast," he replied.

"Oh, I thought you alluded to Rossi," said the judge.

EXHIBIT F.

From News Item Appearing in the Telegram.

Branded by his own admissions a traitor to his Government, William Glover, recently deposed head of the local branch of the United States secret service, was submitted to a grilling cross-examination in the federal court Saturday, when he took the stand at his own request as a witness for the defense.

One of the startling disclosures made in the testimony of Glover was that he had been removed from the secret service after a letter had been sent by a federal grand jury to his chief at Washington.

This letter charged that Glover and an assistant planned with Angelo Rossi, a "stool-pigeon", impressed into their scheme, to "plant" stolen war stamps in the room of Fred Peterson, ex-convict.

Peterson, on account of his previous record, being convinced he would be convicted before a jury, it is said, pleaded guilty to the possession of the stamps. Peterson is now serving a sentence in the county jail as the result.

EXHIBIT G.

From News Item Appearing in the Portland News.

New developments growing out of the war savings stamp scandal in the federal court trial now in progress today here were:

That \$5000 worth of the stamps disappeared after they had passed through the hands of three detectives who made an arrest of a petty criminal in whose possession was found stamps to the value of something like \$20,000, part of the loot from the bank of Asotin, Wash., robbed by yeggs.

That an attempt was made to bribe City Detective Tom Coleman.

That the total amount involved in the robbery of six or seven small country banks in the Northwest within a space of a few months was close to \$200,000.

That the recent robbery of the Scottsburg post-office and general store was the work of a yegg gang headed by Frank Wagner, notorious safe cracker, is the opinion of Pinkerton operatives who have been working on the case.

Wagner, who was serving a 40-year sentence at Salem for the blowing of a safe at Astoria, made his escape a few weeks ago.

Fences Were to Sell Plunder.

The theory that Wagner planned and carried through the coup at Scottsburg, where \$20,000 in cash was the principal loot, was formulated when the Pinkerton men learned that Ann Bryant, "affinity" of Wagner, has been making her home within six miles of Scottsburg during the past few months.

All of this plunder is supposed to have been brought by the bank robber gang to Portland to be disposed of through Portland "fences."

Angelo Rossi, one of the six defendants in the war savings stamp conspiracy case now being prosecuted in the federal court, is suspected of having been the principal distributing agent and W. E. Smith, William Brenner, David Stein and Detective Bob LaSalle, co-defendants with Rossi, are presumed to have been sub-agents. Besides these, the United States department of justice believes that many other Portland men are involved.

"The worst gang of yeggs that has ever operated on the Pacific coast," said Special Agent William Bryon, of the U. S. department of justice, "are mixed up in this conspiracy."

Find Bribe on His Front Porch.

That it would have been impossible for bank robbers to put \$20,000 worth of Government securities on the market without the co-operation of Government sleuths and of some local law enforcement agencies is the opinion of Bryon.

EXHIBIT H.

From News Item Appearing in the Oregonian.

The fate of Robert LaSalle, former inspector of the Portland police department, Angelo Rossi, Dave Stein and William Brenner, local merchants; W. E. Smith, watchmaker, and Fred Peterson, ex-convict, who is now doing a term of one year in the Multnomah county jail, all of whom are charged with conspiracy in trafficking in altered United States war savings stamps, rested with the jury in the federal district court last night. * * *

According to the federal operatives and the United States attorney's office, this case is intended to open a thorough clean-up of activities of an alleged ring dealing in stolen Government securities in this section of the country, often making honest men their dupes in the disposal of the paper.

In the federal officials' estimation it is this clique that has made it possible for robbers to break into many banks in this state in the last few years, always finding ready sale for the product of their robberies, and few of the Government stamps and liberty bonds have been traced. The amount lost by three robberies runs into many thousands of dollars, and the Government is determined to run down the criminals.

Whereupon the said motion for a new trial was then argued before the court, and was on the 17th day of January, 1921, overruled and denied by the court, to which ruling of the court the defendant then and there duly excepted.

Thereupon the defendant moved the court to arrest judgment upon the said verdict for the following reasons:

1. That the said indictment is duplicitous in that two offenses are charged or attempted eo be charged therein;

2. That the said indictment does not state facts sufficient to constitute an offense or a crime against the laws of the United States;

3. That no issue has been joined herein in that the defendant has never pleaded to this indictment; and that because of which said errors in the record herein, no lawful judgment can be rendered by the court upon the record in this case.

Whereupon the said motion in arrest of judgment was then argued before the court, and was on the 17th day of January, 1921, overruled and denied by the court, to which ruling of the court the defendant then and there duly excepted.

AND, NOW, because all the foregoing matters and things are not of record in this case, I, Charles E. Wolverton, the judge who tried the above entitled cause in the above entitled court, do hereby certify that the foregoing bill of exceptions correctly states all the proceedings had before me on the trial of said cause so far as they pertain to these particular exceptions, and truly states all the rulings of the Court upon the questions of law presented; and that the exceptions taken by defendant's attorney were duly taken and allowed; that said bill of exceptions was prepared and submitted within the time allowed by the order of the Court, and is now signed, sealed and settled as and for the bill of exceptions in said cause, and the same is hereby ordered to be made a part of the record in said cause.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, 1921.

CHAS. E. WOLVERTON,
United States District Judge.

Due, timely and legal service by copy hereof admitted at Portland, Oregon, this 13th day of May, 1921.

JOHN C. VEATCH,
Assistant U. S. Attorney.

Filed June 1, 1921.

G. H. MARSH, Clerk.

PETITION FOR WRIT OF ERROR

**In the District Court of the United States for the
District of Oregon.**

United States of America, Plaintiff,

VS.

Angelo H. Rossi, Defendant.

AND AFTERWARDS, to wit, on the 10 day of May, 1921, there was duly FILED in said Court, a Petition for Writ of Error, in words and figures as follows, to wit:

Your petitioner Angelo H. Rossi, defendant in the above entitled cause now comes and brings this, his petition as plaintiff in error, for a writ of error to the District Court of the United States for the District of Oregon, and thereupon your petitioner shows:

That on the 26th day of January, 1921, there was rendered and entered in the above entitled cause a judgment in and by said District Court of the United States for the District of Oregon, wherein and whereby your petitioner was sentenced and ad-

judged to be imprisoned in the United States penitentiary at McNeill's Island for the term of eighteen months.

And your petitioner further shows that he is advised by counsel that there are manifest errors in the records and proceedings at and in said cause in the rendition of said judgment and sentence, to the great damage of your petitioner, all of which errors will be made to appear by examination of the said record and more particularly by an examination of the bill of exceptions by your petitioner tendered and filed herein and in the assignments of error filed and tendered herewith.

To the end, therefore, that the said judgment, sentence and proceedings may be reversed by the United States Circuit Court of Appeals, of the Ninth Circuit, your petitioner prays that a writ of error may be issued, directed therefrom to the said District Court of the United States for the District of Oregon, returnable according to law, and the practice of this Court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignments of error and all proceedings had in said cause; that the same may be removed into the United States Circuit Court of Appeals for the Ninth Circuit to the end that the errors, if any have happened, may be fully corrected, and full and speedy justice done your petitioner.

And your petitioner now makes his assignments of error filed herewith upon which he will rely, and

which will be made to appear by the return of said record in obedience to said writ.

WHEREFORE, your petitioner prays the issuance of a writ as hereinbefore prayed for, and prays that his assignments of error, filed herewith may be considered as his assignments of error upon the writ, and that the judgment rendered in this cause may be reversed and held for naught and said cause remanded for further proceedings, and also that an order be made fixing the amount of security which the said petitioner shall give and furnish upon said writ of error, and that upon the giving of such security all further proceedings in this Court against the said petitioner be suspended and stayed until the determination of the said writ of error in the said Circuit Court of Appeals.

BARNETT H. GOLDSTEIN,
Attorney for Petitioner.

STATE OF OREGON,	}
	{ss.
County of Multnomah.	}

Due, timely and legal service by copy, admitted at Portland, Oregon, this 10th day of May, 1921.

JOHN C. VEATCH,
Assistant U. S. Attorney.

Filed May 10, 1921.

G. H. MARSH, Clerk.

AND AFTERWARDS, to wit, on the 10 day of May, 1921, there was FILED in said Court, Assignment of Errors in words and figures as follows, to wit:

ASSIGNMENT OF ERRORS.

**In the District Court of the United States for the
District of Oregon.**

United States of America, Plaintiff,

vs.

Angelo H. Rossi, Defendant.

Now comes the plaintiff in error, the defendant above named, by his counsel, and presents this assignment of errors containing the assignment of errors upon which he will rely upon in the United States Circuit Court of Appeals, for the Ninth Circuit, and specifies the following particulars wherein it is claimed that the District Court erred in the course of the trial of said cause:

I.

That the trial court erred in overruling the demurrer to the indictment in this, to-wit:

(a) That the said indictment is duplicitious in that two offenses are charged or attempted to be charged therein.

(b) That the said indictment does not state facts sufficient to constitute an offense or a crime against the laws of the United States.

II.

That the trial court erred over the objection and exception of the defendant in admitting the following evidence testified to by Miss Daisy Buckner, a witness for the government:

Q. Miss Buckner, state whether or not any claims for the loss of registered stamps on the night of March 3, 1920, were filed at the postoffice at Scio, Oregon.

A. There have been.

Q. Will you just explain briefly to the jury, Miss Buckner, what these registered stamps are, and how they are registered, so that they may understand it.

* * *

A. The regulations governing the registration of war savings stamps are that stamps may be registered at any first, second or third-class postoffice, regardless of when or where they were purchased or by whom they were purchased, except that of course stamps being registered must at the time of the registration have entered upon the certificate upon which they have been pasted and are—none are registered except what are pasted upon certificates—and those stamps are each canceled separately by means of a rubber stamp, impression

stamp, bearing the postoffice number and the serial number, each number on each stamp, the serial number being the same, and beginning with 1 and numbering consecutively as long as the registration is carried out.

Q. Well, state whether or not any one in the vicinity of Scio made a claim at the Scio postoffice after March 3, 1920, for the replacement of stamps that were lost.

A. There have been perhaps—I don't know the exact number—between twenty and thirty, more or less.

Q. Twenty or thirty people?

A. Yes.

Q. Have you a list of those?

A. I have.

* * *

Q. Just read the names of the parties who have made claims for stamps.

A. Edward D. Jones, Minnie D. Jones, Albert E. Randall, Mrs. Rosella White, William A. White, Mrs. Elizabeth J. Ewing, George M. Bilyeu, Clarence Roy Scott, Marjorie Moses, Grace Bilyeu, Anton Holub, Daisy Buckner, Vaclav Prokop, Wau-nita Stepanek, Viola Stepanek, Mrs. Ollie Mac Donald, Fred Jones, Robert C. Daniel, Frankie Holub, Mrs. Melvina Randall, W. R. Kelly, W. J. Kelly,

Effie Rodgers, James Keith White, Ephriam Piatt, Ruth Eichinger, Mary Holub, Melda Bilyeu, Guy Funk, J. T. Funk, Mrs. S. O. Funk, Mrs. Nancy D. Arnold, Wilbur Funk, F. J. Denny, Chas. A. White, William Phillips, Elva Phillips, C. F. Sargent, Joe Holub, Frank Shindler, J. A. or Minnie D. Craft, Mrs. Lulu Quinn, C. H. Rockwell, Eleanor Shimanek, Mrs. Emma Holub, Mrs. Mary E. Richardson, Verlin Richardson, Thomas A. Richardson, Thomas P. Prospal, Mrs. Cora Eichinger, Antonie Prokop, John W. Scott, Glen A. Scott, C. A. Silbernagel, Rosa Silbernagel, John Soucek, Fred Mespelt, Frances Higinbotham, Eldon Vaughan, Mrs. Emma Cain and Napoleon B. Moses.

III.

That the trial court erred over the objection and exception of the defendant in admitting the following evidence testified to by W. R. Bryon, a witness for the government:

Q. I will ask you whether or not on or about the 10th day of May, 1920, you had an interview with Angelo H. Rossi?

A. I did.

Q. Was he being interviewed with a view of ascertaining information about war savings stamps?

A. He was.

Q. Was he under arrest at the time?

A. He was not.

Q. State, Mr. Bryon, as near as you can recollect, what was said by Mr. Rossi at the time.

* * *

A. I called him in there and asked him about this Earl Lee, what business he had with Earl Lee, and what he knew about him.

* * *

Q. What was said at that time?

A. By Rossi?

Q. Yes.

A. Rossi told me that he knew something about this, and that if I had any idea that he was going to give any testimony about it I might as well forget it, and throwed his fist down on the desk and made everything jump in the air. And if you want to know what I said I will repeat it.

MR. GOLDSTEIN: Go ahead. Tell what you said.

A. I told him that he was not conducting any investigation or running any part of the government's business, and that if he wanted to make any such statement as that to go downstairs and tell it to the court on the second floor; that he had a way of dealing with him; that he nor anybody around there would direct who would testify or who would not testify, or when they would testify, and that he would not be consulted concerning the operation or the direction of any government investigation,

nor be asked any suggestions. All he had to do was to answer a few simple questions.

* * *

IV.

The trial court erred over the objection and exception of the defendant in permitting the said W. R. Bryon to give such testimony orally on the ground that the same had theretofore been reduced to writing, and that the written transcript thereof was the best evidence.

V.

That the trial court erred over the objection and exception of the defendant in permitting to be read in evidence before the jury the following statement of the defendant, made to W. R. Bryon and as transcribed by Miss Harriet Doeltz, a witness for the government.

MR. VEATCH: You understand this, Rossi, that you are not required to tell me anything, but whatever you do say here can be used against you. You are in no position to tell us what you will do or what you will not do. There has been certain government property that has been stolen. It is our business to find out the men who are guilty, and it is our business to find out who all is mixed up with it. You have been called in here and given an opportunity to explain what you know about it because we know you have had correspondence with certain of these men who, we know, stole cer-

tain government property—now if you are one of that bunch we want to know it.

A. I am not.

Q. If you are not one of the bunch, now is the time to clear it up, but remember this, that when it comes to the time of trial and it is necessary for us to use you, you certainly will be called as a witness. Now, we are not promising you anything. You are in no position to demand anything.

A. Well, as far as that correspondence is concerned, there is nothing in that correspondence that can get me in wrong with the government. I know that.

Q. Well, what about going down to the U. S. Bank and getting these blank certificates for war savings stamps?

A. Yes, I did go down.

Q. And put war savings stamps on them?

A. Yes.

Q. Where did you get those stamps?

A. Got them from a fellow named Whitey.

Q. Swede Whitey?

A. Yes.

Q. The fellow now under arrest?

A. Yes.

Q. When did you get them from Whitey?

A. Well, I couldn't tell you the date exactly—it was a few days previous to the time I went down—

Q. How long have you known Whitey?

A. Two years.

Q. Well, you know Whitey is a yegg?

A. I got acquainted with him when he got paroled out of Salem; when he was working in the shipyards.

Q. Didn't you know these stamps were stolen?

A. No, I never asked those fellows any questions. There were enough stamps for seven books and maybe twenty or twenty-five over.

Q. Well, you had reason to suspect these stamps were stolen?

A. Well, it's just like this—you have to consider the source. I know when I had that store—Swede Whitey bought stamps when he worked in the shipyards because it was compulsory; but that happened a couple of years ago.

Q. Did you pay him anything for those stamps?

A. No, sir. He wanted me to dispose of them.

Q. He wanted you to sell them?

A. Yes, sir.

Q. Do you run a pawnshop?

A. No, sir.

Q. How did he happen to be selling stuff to these people?

A. Well, I don't know. That particular time he came into the store and bought a ring off from me. He asked me if I could dispose of stamps for him. I told him I didn't know—every jeweler, in fact 90 per cent of the men on the street will buy them and take them in on sales, and like that.

Q. Well, did you try to sell any of them?

A. Yes.

Q. Where?

A. I asked two or three people.

Q. Whom did you ask?

A. Well, I asked a fellow by the name of Dave Stein, but he said he would buy them if they were on books and he got a bill of sale. Well, just about that time the secret service men came into the store and I didn't have time to do anything with them.

Q. Did you try to sell to any one besides Stein?

A. Yes, I did. Two or three different pawnshops, but they wanted them for nothing, you know.

Q. What did you do with them then?

A. Well, I had them in the store and Joe Walters of the secret service came into the store and said: "Rossi, have you any war savings stamps?" I said I did. He said: "How many?" I said I had seven books of them. He said: "Where are they at?" And I handed them to him. He asked me if I had any more and I gave him the rest. He asked me where I got them and I told him, and he went up and got Swede Whitey and they arrested him, so I didn't have the stamps in my possession more than about, I should judge, a day and a half. It might have been two days.

Q. Rossi, do you know you are violating a law when you have this in your possession?

A. I didn't know it then but I know it now—Glover read the law to me. When they came into the store and I saw they were on the case, I didn't hesitate. I said: "If they are crooked I don't want them" and I gave them the stamps in two minutes. In fact I was making no secret about disposing of them. I asked several people: "Do you need war savings stamps—at a slight discount?" Whitey was asking \$3.75 each for them.

Q. Has John Bull a solution that will remove registry numbers?

* * *

A. When I got these stamps I noticed a peculiar odor, but I couldn't see any number on them.

Q. What did you mean, Rossi, when you said here that you wouldn't take the stamps in this case?

A. Because they suspicioned that I was responsible for Swede Whitey and all the rest of

them getting pinched and my 'phone rang so much—I have been compelled to carry a gun for the last three or four weeks because if I saw one of these fellows and they didn't look right to me I would see that I started shooting first. I know them people better than any one in Portland—I know what they are capable of doing.

Q. Have you gotten other stuff from these fellows?

A. No, absolutely not, never.

Q. Did you ever go as a fence for them?

A. No, sir. They never used to come near me because I never really had enough money. They do business with people who have plenty of money. The only thing, I knew Johnny Bull years ago; in fact, he is the only one I knew of that gang, although the local policemen think I acted as a fence for those boys. They never gave me 10c worth of stuff, never. I don't know whether your office is connected with Glover's office. Glover can tell you that it was through me that they got all they did get and I helped them; gave my time to it; neglected my business and everything else to help Glover on that case, with the understanding, positively, that I would not get mixed up in court with it. I thought I did enough. I personally accomplished for them what has been accomplished.

Q. Were you the informant then that Walters refused to tell his name at the hearing up here?

A. Well, I don't know. I suppose so, unless he was referring to somebody else.

Q. At the time of the commissioner's hearing—

A. I don't want to be classified as an informant or anything else. It was simply when they came, I told them the truth, that's all.

Q. That's all you can do anywhere?

A. Yes, a man is foolish if he doesn't.

Q. At the time of the commissioner's hearing, Mr. Walters was asked if he had ever seen these stamps before, and he said he had but refused to tell where he saw them, because he said it would be to his informant—that an officer is not required to tell where he got the information. You understand this man Lee was arrested in Idaho.

A. Yes.

Q. And certain correspondence passed between you and Lee?

A. Yes.

Q. You understand that we know Earl Lee, Johnny Bull and Swede Whitey robbed the Scio bank?

A. Well, that's what I heard. I never believed Lee had anything to do with Johnny Bull. He said he did in letters he wrote, because at that time Earl Lee was in trouble with an automobile, and I was giving him money to live on, and I couldn't figure how he got in on that job—of course, he may have been "bulling" me.

Q. Earl Lee was in trouble with an automobile?

A. Well, he bought a machine and forgot to pay for it, that was all.

Q. What kind of a machine did he get?

A. Hudson Super-Six.

Q. Well, Rossi, I don't know anything about your connection with them except what you told me.

A. That is the only connection I had. In fact, I never saw any of the fellows previous to a year ago.

Q. Who is "Nellie."

A. I heard she is pretty,—well smart woman. She seems to handle the bank roll.

Q. She lives with Tom Shay?

A. I always thought she lived with Gleason.

Q. Well, Tom goes by the name of Malone.

A. I'm not personally acquainted with him, only what I heard of him. He is kind of a safe cracker.

Q. You don't know whether Nellie is living with Gleason or Shay?

A. I always thought she lived with Gleason, from what I heard.

Q. What do you know about Nellie?

A. I don't know her personally. I wouldn't know her if I saw her. Just heard the fellows talk about her. Johnny Bull seems to think a lot of her. My own personal opinion is that that woman used to do the locating for that gang.

Q. Well, Rossi, the government has started out to clean out this whole bunch.

A. Well, it's a good job. I'm surprised they didn't do it years ago.

Q. We are not asking you to be informant on anybody, but we have run onto your trail in investigating this case. All we ask of you is simply to tell the truth.

A. Well, I'm giving it to you. As I say, that gang kept away from me. Of course, I always knew in my own mind that they were responsible for these robberies that were going on—they always seemed to have money. Of course, a man didn't have proof of what they were doing. I haven't seen Johnny Bull now for at least eight months. About a year and a half ago he used to come down pretty often, but something happened at that time and they got suspicious and kept away; and it, of course, pleased me.

Q. You are in this position: As I say, we have run onto your trail in investigating this case. There have been two sets of officers working on it. A part of the information we have in connection with this case came through the secret service, and a part of it has come through Mr. Bryon's office. Now, we are going to clear this thing up from top to bottom, and every man who knows anything about it is going to tell what he knows about it. That is clear, is it?

You are in no position to say here what you will or will not testify to. The only thing you can say is you will tell the truth. That is all we ask you to do.

A. I have told you the truth. I have told Glover the truth, and if the word of the secret service is not good—

Q. Well, I am not in the secret service. I am a prosecuting officer.

A. They have me to thank for what they have accomplished in this case.

Q. We know more about this case than what you have told us, that didn't come from the secret service.

Mr. Bryon:

“Salt Lake, 5:21 p. m. Evans State Bank, American Falls Draught Earl Evans State Bank Draught Earl Lee 50.00 Pomade A. Rossi everything rusty sending letter to nite Pendleton, Ore. Tragent.”

Q. Now, Mr. Rossi, does that refresh your memory any?

A. I sent a telegram but I never mentioned anything about a letter to Pendleton, Oregon. I don't understand that.

Q. That is just the reason I am reading it to you, to give you time to refresh your memory and get it right.

A. Yes, I sent telegrams, but that has nothing to do with this stamp case—the yeggs—absolutely not.

A. I bank at Ashley & Rumelin Bank as Angelo H. Rossi. I got the stamps at the U. S. Hotel, 2nd and Main streets, I think, in Whitey's room. There was no one present except Whitey and Johnny Bull.

MR. VEATCH: You say this fellow Stein was one of the fellows you attempted to sell to?

A. Yes, I asked him if he could use any and he said he would let me know, and then the secret service men came. I went to see a man previous to that named Sitton, but he wouldn't have anything to do with them. When I saw Mr. Sitton they were loose. I just told him that I have a few stamps; that he was kind of a speculator, and asked him if he could use them. He said, "Well, I'll look them up." He went to the Federal Reserve Bank and looked them up, and said they were not good, only on certificates, so I went back and got certificates. That same afternoon Walters came into the store and I gave the stamps to him.

VI.

That the trial court erred over the objection and exception in permitting the following evidence testified to by Mr. P. A. Young, a witness for the government:

Q. Did Mr. Rossi make a statement before the grand jury concerning the stamp transactions now under investigation?

A. He did.

Q. Will you state, Mr. Young, to the best of your recollection, what was said by Mr. Rossi at that time?

A. Mr. Rossi told us that he had several stamp transactions, and I believe he began with one with reference to Mr. Sitton. He said that he had received stamps from— —

* * *

Q. Did Mr. Rossi say anything about where he got these stamps?

A. He told us that they came from Mr. Peterson.

Q. Did he make any statements as to where the transactions with Mr. Peterson took place?

A. The transaction, the first transaction, I believe, took place in his store.

Q. In Rossi's store.

A. In Rossi's store, and afterward took place in Mr. Peterson's room.

Q. Did he say anything about the time of day on which the second transaction took place in Mr. Peterson's room?

A. I think it was about seven o'clock in the evening.

Q. Did he say who was in the room at the time?

A. Yes, he said Johnny Bull, Mr. Peterson, and, I believe, he said that Russell Shawhan—

Q. State whether or not Mr. Rossi made mention of any other stamps or bonds in Mr. Peterson's room, at the time he made this second purchase of stamps.

A. We were asking him in regard to whether he thought the stamps were stolen, and he said that on the dresser, as he passed by, he saw a \$1000 bond and a \$500 bond, and he suspected that they were stolen.

MR. GOLDSTEIN: What were stolen?

A. That the stamps and the bonds probably were stolen, that was his version of it.

Q. Did he say anything about getting any stamps from Peterson or any one else after this time?

A. Well, I could tell by referring to the notes, but I don't recollect it.

Q. Well, do you recall, Mr. Young, whether or not Mr. Rossi made a statement of the individuals to whom he had sold or delivered the stamps?

A. Yes.

Whom did he mention?

A. He first mentioned Mr. Brenner and then Mr. Smith, and Mr. LaSalle and Mr. Stein. I think that was all Mr. Rossi mentioned.

Q. Did he mention any one by the name of Mr. Sitton?

A. Yes, sir; but he told us that that transaction previous to this transaction with Mr. Peterson.

Q. He stated the Sitton transaction was previous?

A. Yes, and that the stamps that he given to Mr. Sitton were stamps that he had purchased from other parties; that they were on cards, I believe. And he also stated that he was borrowing money from Mr. Sitton from time to time, and using these for that purpose.

Q. Did Mr. Rossi make any statement as to whether or not he had any conversation with Mr. LaSalle concerning the stamps?

A. He said he had.

Q. Do you remember what Mr. Rossi said about that at the time?

A. I can't recall it. I know that it was Mr. Rossi's testimony that he had had some transaction.

VII.

That the trial court erred over the objection and exception of the defendant in permitting the

said P. A. Young to refresh his memory as to such testimony by referring to notes that were not taken by said witness, on the ground that the best evidence was the testimony of the person who personally made said notes.

VIII.

That the trial court erred over the objection and exception of the defendant in not permitting the said witness P. A. Young to answer the following question:

Q. You didn't answer my question. Did Mr. Glover state that he had promised immunity to Mr. Rossi for the information he gave?

IX.

That the trial court erred in holding that the admissions of the defendant made before the said witness P. A. Young and before the grand jury were not induced or encouraged by the promise of immunity therefore granted to said defendant.

X.

That the trial court erred over the objection and exception of the defendant in not permitting W. A. Glover, a witness for the defendant, to state what defendant had told him concerning a conversation had with Mr. Bryon regarding the matter of immunity.

XI.

That the trial court erred in denying the motion of the defendant to strike out the testimony of the government witnesses as to alleged admissions made to them by the defendant subsequent to the promise of immunity theretofore granted to him by W. A. Glover and Joseph Walters, U. S. Secret Service operatives.

XII.

That at the close of all the evidence in the case and after the court had ruled that the testimony of W. R. Bryon, a witness for the government, should be stricken out on the ground that the admissions made by the defendant had been induced by the promise of immunity theretofore given to him, the trial court erred in failing to grant a mistrial on the ground of the highly prejudicial testimony of Bryon before the trial jury.

XIII.

That the trial court erred over the objection and exception of the defendant in permitting George H. Marsh, a witness for the government, to read in evidence in the government's case in chief, the record of a former conviction of one of the defendants, Fred Peterson, on the ground that such evidence was proof of another crime and thereby tended to prejudice all the defendants jointly indicted and tried with Peterson.

XIV.

That the trial court erred in charging the jury as follows:

“The only offense with which the defendants are charged, under the indictment, is that of conspiracy. That is the only cause on trial here, and you should confine your inquiry to that cause alone; and unless the defendants, or two or more of them, are guilty of that particular offense, they must be acquitted.

“You are not to understand, however, that you are not to take into consideration what the defendants, or any of them, have done, according as the evidence may tend to show, conducing to their inculpation. You should examine very carefully all the competent evidence offered with respect to the declarations and acts and demeanor of all the defendants, as it relates to these war savings certificates and war savings certificate stamps, in order to ascertain, if possible, how they came into the possession of the defendants, or any of them, if they ever had such possession; as to whether they were falsely made or altered by them, or any of them, if at all; as to whether they were sold or transferred or received by them, or any of them; and as to whether they, or any of them, were uttered or passed as true and genuine; all for the purpose of determining whether the defendants, or any two or more of them, conspired together, as

alleged, to commit these offenses, or any of them, or to defraud the United States.”

XV.

That the trial court erred in charging the jury as follows:

“I further instruct you that a removal of the stamps from the certificates, if done with intent to defraud, would be tantamount to an alteration of a government obligation, and would, in effect, render it a falsely made certificate or obligation within the purview of section 148 of the Penal Code and would constitute a violation thereof.”

XVI.

The trial court erred in charging the jury as follows:

“So if one should erase the registration number from the face of the stamp, or the owner’s name from the certificate, with the intent to defraud, he would be guilty of an alteration of such certificate, and would commit the offense denounced by section 148.”

XVII.

The trial court erred in charging the jury as follows:

"I instruct you, however, that the statement made by Rossi in giving evidence (before the grand jury) is not to be so disregarded by you. There is evidence tending to show that Rossi appeared before the grand jury voluntarily and of his own accord, and, although warned that whatever statement he might make would be used in evidence against him, he, notwithstanding, gave such evidence without insisting upon his immunity. The evidence, therefore, of Mr. Young, the foreman of the grand jury, was competent and pertinent to prove the admissions of Rossi with reference to the stamp transactions, and you are to regard these admissions for whatever tendency they may have, if any, to show Rossi's connection with the alleged conspiracy."

XVIII.

The trial court erred in charging the jury as follows:

"You will inquire whether the stamps were stolen, and if so, whether by either of the defendants. And in this relation I may say to you that the possession of recently stolen property affords a strong inference that the property was stolen by the person having it in his possession."

XIX.

That the trial court erred in charging the jury as follows:

“Now, gentlemen of the jury, the first question that you propound is the following: Does a stamp simply by being removed from a certificate, said certificate not being registered, become an altered stamp?

“To that I answer; that if the certificate has a stamp attached and the name of the party written upon the certificate, and the stamp thereafter has been removed with intent to defraud, then the defendant would be guilty whether the certificate or stamp was registered or not.”

XX.

That the trial court erred in charging the jury as follows:

“The next question you ask is this: If defendants thought at the time that they were handling stolen stamps, but did not know they were altered registered stamps, could we find them guilty on this indictment?

“My answer to that is that if the defendants were handling these stamps knowing them to be stolen, and they handled them with intent to defraud the United States, then they would be within the purpose of this indictment.”

XXI.

That the trial court erred in refusing to give the jury the following instruction:

“I also call your Honor’s attention to an instruction that I think might be misunderstood. Your honor stated at the outset that these defendants are not on trial for the substantive offenses themselves. That is, that they are not on trial for receiving altered obligations or having in possession altered obligations, or passing altered obligations, but they are charged with conspiring to have these things and to do those things; but that they may consider the admissions and the demeanor of the defendants. I think that is a little confusing, in that it is my contention that the proof of a conspiracy cannot be predicated upon admissions of the defendants themselves as to any part in their transaction; that the proof of conspiracy must be established beyond an admission.”

XXII.

That the trial court erred in refusing to give the jury the following instruction:

“If you believe that the confession made by Mr. Rossi to Mr. Young, foreman of the grand jury, was traceable to the hope inspired by the assurances made by Mr. Walters and Mr. Glover in the first instance, and that Mr. Rossi at the time was relying upon such assurances when he made the confession to Mr. Young, then such confession is inadmissible and you should disregard it. It is not material whether Mr. Young knew that Mr. Glover had inspired a hope in the mind of Mr. Rossi provided there was a casual connection between the hope

aroused and the confession. The fact that the confession was not made to the officer arousing that hope is immaterial. When an improper influence has been exercised it becomes the duty of the government to show that it has been removed before this subsequent confession can be held admissible."

XXIII.

The trial court erred in refusing to give the jury the following instruction:

"The basis of the jurisdiction of the United States over these offenses is that it involves an obligation or other security of the United States which is alleged to have been altered, forged, or counterfeited. If the instrument alleged to have been so altered, forged, or counterfeited is not an obligation of the United States, then there has been no violation of these counterfeiting statutes. Before you can find, therefore, that the defendants conspired to violate any of these statutes you must first of all determine to your satisfaction and beyond a reasonable doubt that the scheme alleged to have been devised by the defendants was one that had in contemplation the dealing in altered, forged, or counterfeited obligations of the United States. If the conspiracy did not have any such object in contemplation, then the scheme could not possibly have resulted in a violation of any of these statutes. In other words, if the defendants conspired to commit some offense that is not denounced by these specific statutes, or any of them, to-wit, sections

148, 151 and 154, then you cannot find any of these defendants guilty on this charge, and your verdict would under those circumstances have to be that of not guilty, so far as this particular charge is concerned."

XXIV.

The trial court erred in refusing to give the jury the following instruction:

"When and under what circumstances can the instruments alleged in the indictment to have been the subject of the alteration be considered as the obligations of the United States? I instruct you that a United States War Savings Stamp becomes an obligation of the United States only when it has been affixed to a United States War Savings Certificate and the name of the owner has been written upon that certificate. It is only when such a certificate is so made up and completed that it becomes an obligation of the United States within the meaning of the counterfeiting statutes herein involved."

XXV.

The trial court erred in refusing to give the jury the following instruction:

"If you should find, therefore, after a review of all the testimony in this case, that the prosecution has not convinced you beyond a reasonable doubt

that the object of the conspiracy was to alter or forge such obligations of the United States, as I have defined them, then it would be your duty to return a verdict of not guilty as to such defendants you find had not so conspired. In other words, if certain of the defendants entered into a conspiracy, assuming that there was a conspiracy, merely to buy, receive, possess, or sell loose war savings stamps, then they could not be said to be guilty of this offense, as such war savings stamps, considered separately, are not obligations of the United States.

XXVI.

That the trial court erred in refusing to give the jury the following instruction:

"It is further charged in the indictment that the defendants conspired to forge and alter obligations of the United States by removing a certain serial or identification number from the face of the stamps. Upon that point I instruct you that it is not an alteration or forgery of a United States war savings certificate, assuming that it was fully and completely made up so as to constitute an obligation of the United States, to erase or remove the serial number therefrom, as such serial number is not a material element of the obligation. The obligation is just as potent in the hands of the holder without as with the serial number. It is only when the certificate has been duly registered that the re-

removal of the registration number therefrom would constitute a forgery. It is not charged in the indictment, however, that the conspiracy included the scheme of altering stamps or certificates that had been registered. That being the case I instruct you that under this indictment there has been no proof that obligations of the United States had been altered by the removal of the registration number therefrom."

XXVII.

That the trial court erred in refusing to give the jury the following instruction:

"I also instruct you that it is unfair and improper to consider anything you may have heard or read concerning this case outside this courtroom to influence you in arriving at your verdict. Your verdict should depend upon the sworn testimony that you have heard here, and upon that testimony only. It appears that a number of articles were written concerning this case which might possibly have a tendency to detract from the testimony as here given under oath. If you have heard or read anything about this case outside this courtroom it is your duty under your oath to disregard it entirely. It is not only unfair to the defendants that you should entertain any prejudice against them for something that you may have heard or read outside this courtroom, but it is likewise a contempt of court to publish such matters of a

pending trial. I therefore remind you of your duty under your oath and appeal to your conscience to consider only the evidence given in this case, and none other. If, therefore, you honestly feel that the evidence as presented in this case is insufficient to convince you beyond a reasonable doubt of the guilt of the defendants, then it is your duty to return a verdict of not guilty, notwithstanding the fact that if you considered the statements in the newspapers your decision would have been otherwise. I also instruct you that your verdict must be based upon the guilt or innocence of these defendants on this charge, and none other, no matter what your opinion may be concerning their guilt upon any other charge or offense. If, therefore, you honestly feel that the evidence as given in this case is insufficient to convince you beyond a reasonable doubt of the guilt of the defendants in conspiring to violate the counterfeiting statutes, then it is your duty to return a verdict of not guilty, notwithstanding you might believe them guilty of some other offense.

XXVIII.

That the trial court erred in refusing to grant defendant's motion to strike out the testimony of P. A. Young as to admissions made by the defendant before him and the grand jury, on the ground that it was an involuntary statement made and induced by the promise of immunity.

XXIX.

That the trial court erred in denying the motion for a new trial on behalf of the defendant in this, to-wit:

(a) That the record fails to show that the defendant has pleaded to this indictment as required by law, and, therefore, no issue being had there was nothing for the jury to try;

(b) That the defendant was prejudiced at the outset of the trial and during the course of the trial by articles appearing in newspapers then and there published and generally circulated in the City of Portland, Oregon, where said cause was being tried, which said articles were of such a nature as to arouse public prejudice against this defendant, and were thereby calculated to prejudice the jury against him;

(c) That the defendant was prejudiced by remarks of the court made during the course of the trial.

XXX.

That the defendant did not have a fair and impartial trial by reason of the prejudice aroused against him during the course of the trial by articles appearing in newspapers published and circulated in the City of Portland, where said cause was being tried.

XXXI.

That the defendant did not have a fair and impartial trial by reason of the following prejudicial remarks of the court made during the course of the trial, to-wit:

"During the examination of William Glover, a witness for the defendant and a former United States secret service operative, when questioned by the attorney for the defendant, testified as follows:

"Q. Did you come to me and ask me to put you on the stand?

"A. I did, sir, night before last.

"Q. Why did you ask that?

"A. When I saw—the reason for asking you to put me on the stand—I saw that Mr. Veatch was not going to put me on the stand so I could explain away some of this newspaper notoriety that has been filtering here for the last six months; so I came to you and requested you to give me a chance to get the truth before this court and my friends here.

"Q. This was a personal request of me as a friend of yours?

"A. Yes, absolutely."

Whereupon the court intervened as follows:

"COURT: Who is your friend?

"A. Well, I have friends all over the coast, your honor.

"COURT: I thought you meant Rossi."

XXXII.

That the trial court erred in denying and overruling the motion of the defendant in arrest of judgment in this, to-wit:

1. That the said indictment is duplicitous in that two offenses are charged or attempted to be charged therein;

2. That the said indictment does not state facts sufficient to constitute an offense or a crime against the laws of the United States;

3. That no issue has been joined herein in that the defendant has never pleaded to this indictment; and that because of which said errors in the record herein, no lawful judgment can be rendered by the court upon the record in this case.

XXXIII.

That the trial court erred in entering judgment against the defendant, upon the ground that he had never pleaded to the indictment, and that therefore no issue had been joined.

XXXIV.

That the trial court erred in entering judgment against the defendant upon the verdict in this case.

WHEREFORE, the defendant, plaintiff in error, prays that the above and foregoing assignment of errors be considered as his assignment of errors upon the writ of error; and further prays that the judgment heretofore rendered in this cause may be reversed and held for naught, and that the plaintiff in error, defendant above named, have such other and further relief as may be in conformity to law and the practice of the court.

BARNETT H. GOLDSTEIN,
Attorney for Defendant.

Due, timely and legal service by copy admitted at Portland, Oregon, this 10th day of May, 1921.

JOHN C. VEATCH,
Attorney for Plaintiff.

Filed, May 10, 1921.

Geo. H. Marsh, Clerk.

And afterwards, to-wit: on Tuesday, the 10th day of May, 1921, the same being the 56th judicial day of the regular March term of said Court; present the Honorable Charles E. Wolverton, United States District Judge presiding, the following proceedings were had in said cause, to-wit:

ORDER ALLOWING WRIT OF ERROR.

**In the District Court of the United States for the
District of Oregon.**

United States of America, Plaintiff,

vs.

Angelo H. Rossi, Defendant.

Upon reading and filing the petition of the said defendant, Angelo H. Rossi, for an order allowing him to prosecute a writ of error from the United States Circuit Court of Appeals of the Ninth Circuit to the District Court of the United States for the District of Oregon, and

It appearing that said defendant has filed herein the assignment of errors relied upon, it is now therefore hereby ordered that said petition hereinbefore referred to be, and the same is, hereby allowed, and that a writ of error issue as in said petition prayed for, and that a citation be issued and served herein, and it is further ordered that said writ of error so allowed operate as a supersedeas, and the defendant be admitted to bail upon furnishing a bond in the penal sum of One Thousand Dollars (\$1000.00), conditioned according to law to be approved by me.

Dated, May 10, 1921.

CHARLES E. WOLVERTON,
Judge.

STATE OF OREGON,)
 }ss.
County of Multnomah.)

Due, timely and legal service by copy, admitted at Portland, Oregon, this 10th day of May, 1921.

JOHN C. VEATCH,
Assistant U. S. Attorney.

Filed, May, 10, 1921.

Geo. H. Marsh, Clerk.

And afterwards, to-wit: on the 10th day of May, 1921, there was duly filed in said court, Bail Bond on writ of Error, in words and figures as follows, to-wit:

BAIL BOND ON WRIT OF ERROR.

**In the District Court of the United States for the
District of Oregon.**

United States of America, Plaintiff,

vs.

Angelo H. Rossi, Defendant.

KNOW ALL MEN BY THESE PRESENTS, That I. Angelo H. Rossi, of the County of Multnomah, State of Oregon, as principal, and Charles E. Wayne, of the County of Multnomah, State of Oregon, and Mary C. Carlock, of the County of Multnomah, State of Oregon, as sureties, are held and

firmly bound unto the United States of America in the full and just sum of One Thousand Dollars, to be paid to the United States of America, to which payment well and truly made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 10th day of May, in the year of our Lord, One Thousand Nine Hundred and Twenty-one.

Whereas, lately on the 26th day of January, 1921, at Portland, Oregon, in the District Court of the United States for the District of Oregon, in a cause pending in said Court between the United States of America, Plaintiff, and Angelo H. Rossi, and others, Defendants, a judgment and sentence was rendered against said Angelo H. Rossi, and said Angelo H. Rossi obtained a Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to the United States District Court to reverse the judgment and sentence in the aforesaid cause, and a citation directed to the said United States of America, citing and admonishing the United States of America to be and appear in the said Court thirty days from and after the date thereof, which citation has been duly served.

Now the condition of said obligation is such, that if the said Angelo H. Rossi shall appear in person in the United States Circuit Court of Appeals for the Ninth Circuit when said cause is reached for argument or when required by law or

rule of said court, and from day to day thereafter in said Court until said cause shall be finally disposed of, and shall abide by and obey the judgment and all orders made by the said Court of Appeals in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said Court may direct, if the judgment and sentence against him shall be affirmed, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

Angelo H. Rossi.
Charles E. Wayne.
Mary C. Carlock.

STATE OF OREGON, }
 }ss.
County of Multnomah. }

I, Charles E. Wayne and Mary C. Carlock, whose names are subscribed as sureties to the above described bond, being severally duly sworn, each for himself says, that I am a resident and freeholder within the State of Oregon, and am worth the sum of One Thousand Dollars (\$1000.00) over and above all property exempt from Execution.

Charles E. Wayne.
Mary C. Carlock.

Subscribed and sworn to before me this 10th day of May, 1921.

(SEAL)

G. H. MARSH,
Clerk, United States District Court,
District of Oregon.

Approved by:

Charles E. Wolverton,
Judge.

STATE OF OREGON, }
 }ss.
County of Multnomah. }

Due, timely and legal service by copy admitted
at Portland, Oregon, this 10th day of May, 1921.

JOHN C. VEATCH,
Assistant United States Attorney.

Filed, May 10, 1921.

G. H. Marsh, Clerk.

And afterwards, to-wit: on the..... day of June,
1921, there was duly filed in said Court a Stip-
ulation in words and figures as follows, to-wit:

STIPULATION.

**In the District Court of the United States for the
District of Oregon.**

United States of America, Plaintiff,

vs.

Angelo H. Rossi, Defendant.

The attorneys for the plaintiff in error herein
having prepared and compared with the original

record the within printed transcript, now, therefore, it is hereby stipulated and agreed by and between the parties to the within proceedings for a writ of error, by and through their respective attorneys, that the within printed record tendered to the clerk of the United States District Court for the District of Oregon for his certificate, is a true transcript of the record in the within cause and that the clerk of said Court shall certify the said printed transcript without comparison thereof with the original record.

BARNETT H. GOLDSTEIN,
Attorney for Plaintiff in Error.

JOHN C. VEATCH,
Attorney for Defendant in Error.

Dated, June 1, 1921.

CLERK'S CERTIFICATE.

United States of America, }
District of Oregon, } ss.

The attorneys for the respective parties to the within proceedings having stipulated that the within printed transcript of record, as prepared, compared and tendered to me for certification by the attorneys for the plaintiff in error, is a true transcript of the record in this cause and that I shall certify the same without comparison.

Now, therefore, in accordance with the said stipulation, I, G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify without comparing the same with the original thereof, that the foregoing transcript of record upon the writ of error in the case in which Angelo H. Rossi is defendant and plaintiff in error, and the United States of America is plaintiff and defendant in error, is a full, true and correct transcript of the record and proceedings had in said Court in said cause, as the same appear of record and on file at my office and in my custody, the same having been compared by attorneys for plaintiff in error.

And I further certify that the fee for certifying to the within transcript, to-wit: the sum of (50 cents) has been paid by the said plaintiffs in error.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Portland, in said district, this.....day of June, 1921.

Clerk of the District Court of the
United States for the District of Oregon.